

GAHC010122572012



2024:GAU-AS:7595

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./722/2012

KAYANG TEA SEED CO. LTD
HAVING ITS REGISTERED OFFICE AT NEWPURUPBARI TEA ESTATE, P.O.-
GOHPUR, DIST.- SONITPUR, ASSAM, REP. BY ITS AUTHORIZED
SIGNATORY AND CEO, SRI VINOD KUMAR SINGH, S/O- BANSHIDHAR
SINGH AGED ABOUT 65 YEARS, R/O- NEWPURUPBARI TEA ESTATE, P.O.-
GOHPUR, DIST.- SONITPUR, ASSAM.

VERSUS

ANAMI TANTI and ORS.
W/O- LT. ARUN TANTI.

2:BIDYUT TANTI
S/O- LT. ARUN TANTI.

3:ACHYUT TANTI
S/O- LT. ARUN TANTI.

4:JARJ TANTI
S/O- LT. ARUN TANTI
ALL ARE R/O VILL.- DALHOUSIE CHAH BAGICHA
P.O.- GOHPUR
DIST.- SONITPUR
ASSAM

Advocate for the Petitioner : MSK MISHRA, MR.D CHOUDHURY,MR.A D CHOUDHURY,MR.
S DEKA,MR.A M BORA

Advocate for the Respondent : MR.K SARMAR-1TO4, MR.D DAS(R-1TO4),MS.K M SARMA(R-
1TO4),MD.A HUSSAIN(R-1TO4),MR.M BERIA(R-1TO4),MR.K CHOUDHURY(R-1TO4)

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

06-08-2024

Heard Mr. Dibakar Choudhury, learned counsel for the petitioner and Mr. K. Sarma, learned counsel for all the respondents.

2. The petitioner is a Tea Company having business of tea cultivation, production, marketing etc., and its allied business.

3. The petitioner Tea Company is having two Tea Estates, namely, Newpurupbari Tea Estate and Dalhousie Cha Bagicha, both at Kalongpur Mouza of Helem Revenue Circle at Gohpur, presently under Biswanath Chariali District, erstwhile, Sonitpur District.

4. It is alleged that on the land of the petitioner Tea Company allotted to them by the State, the respondents were cultivating paddy. A dispute arose between the petitioner tea company and the respondents, for which a proceeding under Section 107 CrPC as well as under Section 145 CrPC was initiated by the petitioner Tea Company.

5. Initially, the learned Executive Magistrate, Gohpur, Biswanath Chariali in Misc Case No.7/2011, passed an order on 13.03.2012, whereby the said Magistrate on the basis of the police report and the points raised by the petitioner, the learned Magistrate had drawn up a proceeding under Section 145 CrPC against both the petitioner as well as the respondents setting aside the proceeding under Section 107 CrPC.

6. Aggrieved by the said order of the learned Executive Magistrate dated 13.03.2012, passed in said Misc. Case No. 7/2011, the respondents preferred a revision petition before the learned Sessions Judge, Sonitpur, Tezpur being Criminal Revision No.29(S-2)/2012, wherein, the present petitioner was the sole opposite party. After hearing the parties, the learned Sessions Judge, Sonitpur by its judgment dated 31.08.2012, passed in said Criminal Revision No. 29(S-2)/2012 set aside the said order dated 13.03.2012, passed by the learned Executive Magistrate, Gohpur, Biswanath Chariali in Misc Case No.7/2011.

7. Being aggrieved with the said order dated 31.08.2012, passed by the learned Sessions Judge in said Criminal Revision No. 29(S-2)/2012, the petitioner has preferred this criminal

petition.

8. The Court while issuing notice to the respondents on 19.10.2012 in this criminal petition, in the interim, passed an order of status quo as on 19.10.2012 with regard to the disputed property involved in the case, which is still in force.

9. In this criminal petition, the petitioner also stated that pursuant to a legal notice dated 02.02.2010, issued through the Advocate to the Revenue authority of Halem Revenue Circle, it received a reply from the Circle Officer, Halem Circle dated 26.02.2010 stating that in terms of the order of the Deputy Commissioner, Sonitpur dated 15.07.2006 an area of 27.23 Bighas of land was converted into No.1 Myadi Patta in the year 2007 in the name of the present respondents from the Village - Dalhousie Cha Bagicha of Special Myadi Patta No.1 and that the Sub-Divisional Officer (Civil), Gohpur by its order dated 11.01.2007 in that regard passed a necessary order under the Assam (Temporarily Settled Areas), Tenancy Act, 1971 and as such the earlier area of 990.39 Bighas of said Dalhousie Cha Bagicha consequently was reduced to 963.16 Bighas and accordingly, the revenue demand was also assessed.

10. The petitioner also stated that after receipt of said letter dated 26.02.2010 from the concerned Circle Officer, it received another letter dated 11.03.2010 from the Circle Officer, Halem Revenue Circle directing it to remain present on 16.03.2010 for demarcation of said land on the basis of an application submitted by the respondents.

11. The petitioner in this criminal petition also stated that aggrieved with the said communication of the Circle Officer, Halem Revenue Circle dated 16.03.2010, it preferred a writ petition, being WP(C) No. 1736/2010 and that by order dated 15.03.2010, the Court while issuing notice to the respondents in said WP(C) No. 1736/2010, in the interim, stayed the process of demarcation of said land, as been directed by the Circle Officer of Halem Revenue Circle in its communication dated 16.03.2010.

12. During the deliberation of the matter, Mr. Choudhury, learned counsel for the petitioner apprised the Court that the learned Single Judge by its order dated 16.06.2017, allowed the said writ petition of the petitioner being WP(C) No. 1736/2010 setting aside the order dated 06.06.2006 passed by the Deputy Commissioner, Sonitpur and the order dated 11.01.2007 passed by the SDO (Civil), Gohpur regarding settlement of 27.23 Bighas of land out of 990.39

Bighas of land of Dalhousie Cha Bagicha of Special Patta No.1 that was allotted in favour of the respondents.

13. The respondents being aggrieved with the said order of the learned Single Judge dated 16.06.2017 passed in said WP(C) No. 1736/2010, preferred an appeal being Writ Appeal No. 200/2017, wherein the present petitioner was also a party respondent. The Hon'ble Division Bench by its order dated 28.02.2019, passed in said WA No. 200/2017, preferred by the present respondents, came to the conclusion that in a writ appeal, it cannot be decided as to whether, the appellants, i.e., the respondents are actually in possession of the land involved in the case and are tenants of the property as claimed in this case, or whether, the respondent No.1, i.e., the petitioner herein is the holder of the said land.

14. Considering the provisions of the Assam (Temporarily Settled Areas), Tenancy Act, 1971, the Hon'ble Division Bench by its order dated 28.02.2019 disposed of said WA No. 200/2017 allowing the appellants, i.e., the present respondents to prefer an application before the Deputy Commissioner concerned as per the provisions of said 1971 Act and the Rules framed there-under directing the Deputy Commissioner concerned to issue notice to the present petitioner in the event of filing any such application by the present respondents and after giving an opportunity of hearing and on recording the evidence of the parties, directed the concerned Deputy Commissioner to decide the matter in accordance with law.

15. Both Mr. Choudhury, learned counsel for the petitioner and Mr. Sarma, learned counsel for all the respondents submitted that said matter is presently pending before the Deputy Commissioner, Biswanath Chariali.

16. It is also admitted by both the parties, that the land involved in this case is same as that of the land involved in said WP(C) No. 1736/2010 as well as in WA No. 200/2017.

17. As the entire issue relating to issuance of order under Section 107/145 CrPC involved in this criminal petition relating to the land of the petitioner Tea Company in its Dalhousie Tea Estate Division is presently pending before the Deputy Commissioner, Biswanath Chariali in terms of the order of the Hon'ble Division in WA No.200/2017 dated 28.02.2019, this criminal petition being infructuous stands dismissed.

18. The interim order of status quo passed earlier on 19.10.2012 in this proceeding stands

merged with this order.

19. The Registry shall return the records of Criminal Revision No.29(S-2)/2012 (*Smti. Anami Tanti and others Vs. Kyang Tea Seed Company Limited*) to the Court of learned Sessions Judge, Biswanath Chariali at Biswanath, erstwhile Sonitpur district as well as the records of Misc. Case No.7/2011 (*Parimal Biswas Vs. Bidyut Tanti and 3 others*) to the Court of learned Executive Magistrate, Gohpur along with a copy of this order.

JUDGE

Comparing Assistant