

GAHC010123362024



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

Case No. : WP(C)/3165/2024

MD. ABDUL BARI
SON OF LATE FOIJAL HOQUE,
VILLAGE- KATLAMARI,
POLICE STATION- LAKHIPUR,
DISTRICT- GOALPARA, ASSAM,
PIN- 783330.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE DEPUTY COMMISSIONER
GOALPARA
POST OFFICE- GOALPARA
PIN-
DISTRICT- GOALPARA
ASSAM.

3:THE BLOCK DEVELOPMENT OFFICER
JALESWAR DEVELOPMENT BLOCK
LAKHIPUR
POST OFFICE- LAKHIPUR

POLICE STATION- LAKHIPUR

DISTRICT- GOALPARA
ASSAM

PIN- 783132.

4:THE PRESIDENT
JALESWAR ANCHALIK PANCHAYAT
KATARIHARA
POST OFFICE- KATARIHARA

POST OFFICE- LAKHIPUR

DISTRICT- GOALPARA
ASSAM.

5:THE EXECUTIVE OFFICER
JALESWAR ANCHALIK PANCHAYAT
KATARIHARA
POST OFFICE- KATARIHARA

POLICE STATION- LAKHIPUR

DISTRICT- GOALPARA
ASSAM

Advocate for the Petitioner : MR. T R SARMA

Advocate for the Respondent : SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

21.06.2024

1. Heard Mr. T.R. Sarma, learned counsel for the petitioner, who submits that the petitioner is the owner of land measuring 2 Katha 10 Lechas covered by Dag No.370 of Patta No.169 in Goalpara District under Mouza-Lakhipur, Lot No.9 situated as Khalisabhitha Musalmanpara village.

2. The petitioner's counsel submits that the respondent no.5 has issued tender notice dated 29.05.2024, for settlement of various markets including

Khalisabhitha Weekly Market and Khalisabhitha Daily Market, which is at Sl. No.15 & 16 of the said tender notice. He submits that the markets to be settled by the Joleswar Anchalik Panchayat encroaches upon the land of the petitioner. He submits that the above two markets cannot be settled, insofar as it extends onto the land of the petitioner, as the petitioner is also running a private market.

3. The petitioner's counsel submits that the District Commissioner (respondent no.2) and the concerned Circle Officer should be directed to make a spot verification as to the extent of the petitioner's land and demarcate the land of the petitioner, in terms of the relevant Jamabandi, so as to ensure that the markets to be settled by the respondent no.5 does not encroach upon the petitioner's land.

4. Mr. U. Sarma, learned counsel appearing on behalf of Mr. S. Dutta, learned counsel for the P&RD Department and Mr. S.S. Roy, learned counsel for the respondent no.2 submit that they have got no objection to the prayer made by the petitioner's counsel.

5. The issue raised by the petitioner is basically to the effect that the two markets (Sl. Nos.15 & 16 of the Tender Notice) that are to be settled by the respondent no.5, encroaches upon the land of the petitioner. As per the consent of the parties, the respondent no.2 is directed to ensure that the concerned Circle Officer makes a spot verification of the petitioner's land, in terms of his Jamabandi and demarcate the land of the petitioner, so as to clarify as to the whether the settlement of the above two markets would encroach upon the petitioner's land. It is made clear that after the Circle Officer makes a report

with regard to the demarcation of the petitioner's land, the respondents should not settle the market insofar as it encroaches into the petitioner's land. A copy of the Circle Officer's report should be given to respondent no.2 by the petitioner. The entire exercise should be concluded by the respondent no.2 and the concerned Circle Officer in his office, within a period of 20 (twenty) days from the date of receipt of a certified copy of this order. A copy of this order should be given to the respondent no.2 by the petitioner within one week from today. Till such time the Circle Officer makes a report with regard to the area of the petitioner's land and the consequential demarcation to be made, the respondent no.5 shall not settle the two markets, insofar as it touches/encroaches upon the petitioner's private land.

6. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant