

GAHC010129622021



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

Case No. : WP(C)/5140/2021

ON THE DEATH OF KARUNA DAS, HIS LEGAL HEIRS, SMTI. NAMITA DAS
CHOUDHURY,
WIFE OF LATE KARUNA DAS,
RESIDENT OF AZARA, NEAR CENTRAL SCHOOL, P.O- AZARA, GUWAHATI
-17, DIST KAMRUP (M) ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT.
OF ASSAM, REVENUE AND DISASTER MANAGEMENT (S) DEPARTMENT,
DISPUR, GUWAHATI 06, DIST KAMRUP (M) ASSAM

2:THE DEPUTY SECRETARY
TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT (S) DEPARTMENT
DISPUR
GUWAHATI 06
DIST KAMRUP (M) ASSAM

3:THE DEPUTY COMMISSIONER

KAMRUP(M) PANBAZAR
GUWAHATI 01
DIST KAMRUP (M) ASSAM

4:THE ADDITIONAL DEPUTY COMMISSIONER (REVENUE)
KAMRUP(M) PANBAZAR
GUWAHATI 01
DIST KAMRUP (M) ASSAM

5:THE CIRCLE OFFICER

AZARA REVENUE CIRCLE
AZARA
GUWAHATI 17
DIST KAMRUP (M) ASSAM

6:SHRI DINDAYAL SHARMA
S/O LATE JAGADISWAR SHARMA
RESIDENT OF FANCY BAZAR
KEDAR ROAD
GUWAHATI 01
DIST KAMRUP (M) ASSA

For the Petitioner(s) : Mr. S. A. Bakhtiar, Advocate

For the Respondent(s) : Mr. S. Baruah, Standing Counsel

Date of Hearing : **27.09.2024**

Date of Judgment : **27.09.2024**

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (ORAL)

Heard Mr. S. A. Bakhtiar, the learned counsel appearing on behalf of the Petitioner and Ms. G. Hazarika, the learned Government Advocate appearing on behalf of the Respondent Nos. 1 and 2. I have also heard Mr. S. Baruah, the learned Standing counsel appearing on behalf of the Respondent Nos. 3, 4 and 5.

2. Taking into account the order which this Court proposes to pass as well as the issue involved, the presence of the Respondent No.6 is not necessary.

3. The case of the Petitioner herein is that the father of the Petitioner was issued an annual lease of a plot of land measuring 2 Kathas 19

Lechas of village Dharapur under Ramcharani Mouza District Kamrup (M) of 16 No. A.P. Dag No.1000 of K.P. Patta No.845.

4. It is the case of the Petitioner that the Petitioner had submitted an application in terms with the Land Policy of 1989 for conversion of the Annual Patta to Periodic Patta. The Circle Officer, Azara Revenue Circle vide an order dated 31.08.2013 converted the 2 Katha 19 Lechas of the land contained in Annual Patta No.16 Dag No.1000 to Periodic Patta. When the said aspect came to the notice of the Deputy Commissioner, Kamrup (M), it came to light that the said conversion made by the Circle Officer Azara was not in accordance with law inasmuch as the Circle Officer did not have the authority and jurisdiction to convert the Annual Patta to Periodic Patta. Accordingly, vide an order dated 21.05.2014, the Deputy Commissioner, Kamrup (M) cancelled the order dated 31.08.2013 passed by the Circle Officer, Azara for conversion on the ground that the converted land is situated within 66 ft. of the 75 ft. reservation from the center of the road and as such, as per Rule 23(2) of the Settlement Rules, only Government has the jurisdiction to convert the land within 66 ft. The other reason which was assigned was that the land being situated within 10 kms from the periphery of the Guwahati Municipal Corporation, only the Deputy Commissioner is the competent authority for conversion as per the Government order No.RSD.8/87/32 dated 26.09.1989. The Petitioner thereupon being aggrieved filed an appeal before the learned Assam Board of Revenue which was registered and numbered as 54RA(K)/2014. The learned Assam Board of Revenue taking into account that the said order was passed by the Deputy Commissioner Kamrup (M) without providing any opportunity to the petitioner vide an order dated

the 10.11.2014 set aside the order of the Deputy Commissioner Kamrup (M) dated 21.05.2014 and remanded the matter back to the Deputy Commissioner, Kamrup (M).

5. Subsequent thereto, the Additional Deputy Commissioner, Kamrup (M) passed an order dated 18.07.2017 after giving due opportunity to the petitioner thereby cancelling the conversion of the Annual Patta to the Periodic Patta. Being aggrieved, an appeal was preferred before the learned Assam Board of Revenue which was registered and numbered as Revenue Appeal No. 55(K)/2017. The learned Assam Board of Revenue vide an order dated 28.01.2021 upheld the order dated 18.07.2017 passed by the Additional Deputy Commissioner, Kamrup (M) and it is under such circumstances that instant writ petition has been filed.

6. The learned counsel appearing on behalf of the petitioner submitted that on account of pendency of a suit between the petitioner and the Respondent No.6, the learned Assam Board of Revenue ought not to have passed the impugned order and ought to have awaited the final outcome of the suit which was filed by the petitioner against the Respondent No.6. The learned counsel for the petitioner further submitted that in the instant case, while passing the order dated 18.07.2017 which was upheld by the learned Assam Board of Revenue, the rights of the petitioner in respect to the land have been taken away.

7. I have also heard the learned counsel appearing on behalf of the Respondents who submitted that the order dated 28.01.2021 impugned in the instant proceedings does not call for any interference.

8. Upon hearing the learned counsels appearing on behalf of the

parties and giving anxious consideration to the respective submissions, it is seen that in the instant case, the conversion of the Annual Patta to the Periodic Patta was made by the Circle Officer who had no authority or jurisdiction to do so.

9. Under such circumstances, the Additional Deputy Commissioner Kamrup (M) committed no error in passing the order dated 18.07.2017. The natural corollary of the above observations is that the learned Assam Board of Revenue have also not committed any illegalities in passing the impugned order dated 28.01.2021 and as such, the question of interference with the said order dated the 28.01.2021 does not arise.

10. It is also seen from the order dated 18.07.2017 passed by the Additional Deputy Commissioner, Kamrup (M) that while cancelling the Periodic Patta, it was categorically mentioned that the Dag No.1000 will remain as Annual Patta until converted by observing the due procedure as per the prevailing Rules/Act.

11. Under such circumstances, there has been no cancellation of the Annual Patta which was issued to the predecessor-in-interest of the petitioner which now have devolved upon the petitioner. At these stage, if this Court takes note of the Land Policy of 2019, it would be seen that there is an impetus given by the Government of Assam at Clause No.11 of the Land Policy, 2019 for conversion of Annual Patta to Periodic Patta as expeditiously as possible by chalking out a time bound action plan as per the existing provisions of the Assam Land Records Manual as well as the Assam Land and Revenue Regulation, 1886 and the Government instructions in force.

12. Under such circumstances, this Court, therefore while not interfering with the impugned order dated 28.01.2021 passed by the learned Assam Board of Revenue grants the liberty to the Petitioner to file appropriate application for conversion of its Annual Patta to Periodic Patta before the Deputy Commissioner, Kamrup (M). This Court further observes and directs that the Deputy Commissioner, Kamrup (M) shall on such application being filed, take appropriate steps in terms of Clause 11 of the Land Policy of 2019.

13. With above observations and directions, the instant writ petitions stands disposed of.

JUDGE

Comparing Assistant