

GAHC010138222022



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

Case No. : WP(C)/4621/2022

DIPEN CHETIA
S/O- PRAFULLA CHETIA
R/O- KALIBARI ROAD,
KALIBARI MANDIR, WARD NO-3,
MARIANI TOWN,
P.O AND P.S- MARIANI,
DIST- JORHAT, ASSAM, PIN-785634

VERSUS

THE NORTH EAST FRONTIER RAILWAY AND 2 ORS
REP. BY THE GENERAL MANAGER,, MALIGAON, GUWAHATI, ASSAM-
781011

2:THE SENIOR SECTION ENGINEER
WORKS I/C
N.F RAILWAY
MARIANI
JORHAT
ASSAM -785634

3:THE ESTATE OFFICER
THE NORTH EAST FRONTIER RAILWAY
TINSUKIA
ASSAM
-78612

Advocate for the petitioner(s): Mr. J Abbas

Advocate for the respondent(s): Mr. SS Roy

For the respondent NF Railway

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

29.07.2024

Heard Mr. J Abbas, the learned counsel appearing on behalf of the petitioner. Also heard Mr. SS Roy, the learned CGC appearing on behalf of the respondent, NF Railway.

2. The petitioner herein who carries on the business of a retail shop in the name and style of M/s. Jai Matadi Enterprise has approached this Court challenging the notice dated 08.07.2022 passed by the Senior Section Engineer Works/IC, N.F.Railway, Mariani on the ground that the action taken by the said officer was contrary to the well settled principles of law.

3. It is the case of the petitioner that the petitioner is in occupation of a plot of land and carrying on his business since long. The learned counsel appearing on behalf of the petitioner submits that the respondent authorities even assuming that they are the owner of the land can take steps for eviction only by following the due process. In that regard, he made a reference to the provisions of the Public Premises (Eviction of Unauthorised Occupant) Act, 1971 (for short, the Act of 1971) which stipulates a particular manner by which steps can be taken for eviction.

4. The learned counsel appearing on behalf of the petitioner submits that such an action can only be taken by the Estate Officer and not by the Senior Section Engineer as has been done in the instant case vide the impugned notice

dated 08.07.2022.

5. I have also heard Mr. SS Roy, the learned CGC appearing on behalf of the NF Railway.

6. This Court duly takes note of the provisions of the Act of 1971 which stipulates the manner in which eviction of unauthorized occupants can be dealt with. It is an admitted fact that the respondent NF Railway has an Estate Officer and under such circumstances, an action by the Senior Section Engineer, NF Railway to issue the notice for eviction dated 08.07.2022 is not in consonance with the provisions of the Act of 1971. Accordingly, the impugned notice dated 08.07.2022 is set aside and quashed.

7. Before parting with the records, this Court, however, makes it clear that the setting aside of the notice dated 08.07.2022 shall not bar the NF Railway authorities to take action in terms with the provisions of the Act of 1971.

8. With the above, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant