

GAHC010151342022



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

Case No. : WP(C)/5025/2022

M/S PRITHVI TEA COMPANY PVT. LTD.
A COMPANY REGISTERED UNDER THE COMPANIES ACT, HAVING ITS
REGISTERED OFFICER AT 33 A J.L. NEHRU ROAD, 15TH FLOOR, ROOM NO.
10 KOLKATA 700071 WEST BENGAL, REP. BY ITS DIRECTOR PRADIP
TUSNIAL

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE COMMISSIONER AND SECRETARY REVENUE AND DISASTER
MANAGEMENT DEPTT. DISPUR GUWAHATI-781006

2:THE COMMISSIONER OF HILLS AND BARAK DIVISION ASSAM
DISPUR

3:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR

4:THE ADDITIONAL DEPUTY COMMISSIONER
CACHAR
SILCHAR

5:THE SETTLEMENT OFFICER
CACHAR AND HAILAKANDI
DIST. SILCHAR

6:THE ASSISTANT SETTLEMENT OFFICER
UDHARBOND CIRCLE
SILCHAR

7:THE ASSISTANT SETTLEMENT OFFICER

SADAR CIRCLE
SILCHAR

8:THE CIRCLE OFFIER
SILCHAR AND UDHARBONG REVENUE CIRCLE
SILCHA

Advocate for the Petitioner : MR D KHAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 29.04.2024

Heard Ms. M. Hazarika, learned senior counsel assisted by Ms. S. Neog for the petitioner. Also heard Ms. N. Bordoloi, learned standing counsel for the respondent No.1 and B. J. Talukdar, learned senior counsel assisted by Mr. P.K. Medhi, learned counsel for the respondents No. 2 to 8.

2. By filing this application, the petitioner is aggrieved by the inaction on the part of the respondent authorities in not considering the grievance of the petitioner in terms of the minutes of the meeting dated 19.01.2022, whereby it was decided to have a verification of recent dag statement prepared by ASO with the ground situation and statement of ASO prepared during 1991.

3. The case of the petitioner, shorn of unnecessary details, is that the petitioner company owns Hatticherra and Subong Tea Estate which were previously owned by M/s Hindustan Tea Company. During which time in a proceeding under Assam Fixation of Ceiling on Land Holding Act, (hereinafter referred to as the Ceiling Act) being L.C. Case No.7 of 1974-75 by an ex-parte order dated on 30.10.1991 a total area measuring 16,821 bighas, 16 kathas 4 chataks of land of the two tea estates was declared as Ceiling surplus land. Against the said order M/s Hindustan Tea Company filed Civil Rule Case No.4587 of 1991, which was allowed by this Hon'ble Court vide order dated 27.04.1993 with certain directions. Unfortunately no

effective steps were taken by the State Government, therefore, another writ petition being WP(C) 7344 of 2002 was filed by M/s Hindustan Tea Company.

4. The two gardens were under lock out from 2002 to 2007 and consequently the liabilities of the two tea estates had increased manifold and under such a circumstance the possession and the management and control of the two estates were decided to be duly handed over to the petitioner by the office of the Deputy Commissioner, Cachar. After due discussion with all the stakeholders on 28.08.2008, a conditional sale deed was executed between M/s Hindustan Tea Company and petitioner whereby land of the two tea estates was transferred subject to the outcome of the writ petition being WP(C) 7344 of 2002.

5. By judgment and order dated 1.06.2010 passed in writ petition WP(C) 7344/2002 the State Government was directed to reconsider the matter and pass appropriate orders for excluding areas under plantations of Bamboo, Coffee, Tea and other valuable forest materials etc as claimed. Pursuant thereto, the Deputy Commissioner, Cachar after causing due enquiry, forwarded the report of the Assistant Settlement Officer to the Deputy Secretary of the Revenue and Disaster Management Department of Government of Assam on 19.05.2011 wherein it was clearly indicated that an area measuring 10635 bighas 11 kathas 13 chatak was under the use of garden with different ancillary plantations and same is to be excluded from the purview of the Ceiling Act. Thereafter, Commissioner of Hills and Barak Valley Division after examining and verifying the report informed the Principal Secretary to the Government of Assam, Revenue (Reforms & DM Department) on 23.12.2011 to take necessary action for exclusion of 10635 bighas 11 kathas 13 chataks of land from the purview of Ceiling Act.

6. Since, no action was taken by the Government, the M/s Hindustan Tea Company along with petitioner were compelled to file another writ petition WP(C) 856/2013. This Court vide order dated 22.02.2013 directed that status quo be maintained as regards the land which finds mention in the letter dated 05.02.2011 and 23.12.2011. The said writ petition was ultimately disposed off by this Court vide order dated 20.03.2017 directing the Deputy Commissioner to examine the claim of the petitioner within a stipulated time period of six months and until the process is completed status quo be maintained in terms of order date d22.02.2013. In spite of this order no survey was conducted, so M/s Hindustan tea Company filed another writ petition

being this court being WP(C) 3133/2019 along with the petitioner. However, on 06.06.2022, the WP(C) 3133/2019 was withdrawn with liberty to file afresh and after M/s Hindustan Tea Company Limited withdrew itself totally from the management of the Tea Estates and is no longer associated with the tea estates.

7. During the pendency of the aforesaid writ petition, the Deputy Commissioner, Cachar issued a Notice dated 25.10.2021 and objections were sought from the interested public as well as the Company within 30 days in connection with handing over 10635 bighas. The petitioner responded to the aforesaid notice and joint meeting was held on 19.02.2022 with the Additional Deputy Commissioner (Revenue) and Assistant Settlement Officer Sadar highlighting the anomalies and inconsistency in the said notice and a decision was made that a verification of the dag statement prepared by the Assistant Settlement Officer, Sadar is required with the ground situation and also the statement prepared in 1991.

8. It is contended that a total area measuring 16821 bighas 16 kathas 4 chataks of land under the two tea estates were declared as Ceiling surplus land and after various litigations before this Court, a statement was prepared wherein 10,635 bighas 11 kathas 13 chataks may be excluded from ceiling surplus area and accordingly it was corrected. Finally on 19.01.2022 a meeting was held under the Additional Deputy Commissioner, Cachar at Silchar.

9. Ms. M. Hazarika, learned senior counsel for the petitioner submits that more than 5 years after the order dated 20.03.2017 passed by this Court has elapsed and even after the meeting dated 19.01.2022 under the Additional Deputy Commissioner(Revenue) no steps have been taken by the respondent to settle the claims of the petitioner with regard to the two tea estates in spite of repeated requests. Therefore, the learned senior counsel submits that this Court may dispose of the writ petition with a direction to the respondent authorities to settle the claims of the petitioner in terms of the minutes of the meeting dated 19.01.2022.

10. Learned counsel for the respondents have agreed and consented to the above submissions of the learned senior counsel for the petitioner.

11. Due consideration have been extended.

12. It is noticed that after series of litigations finally a meeting has been conducted under the

Additional Deputy Commissioner, Cachar, Silchar by drawing minutes which is quoted below:-

“The meeting was presided over by Shri Sadhan Kumar Sarkar, ACS, Additional Deputy Commissioner, (R) Cachar, Silchar.

At the outset the Additional Deputy Commissioner (R) Cachar, Silchar welcomed all the members present in the meeting.

Taking part in the discussion Shri Pradip Tusnial, Director Haticherra Tea Estate pointed out that the L.C. Dag statement prepared by both the ASO's of Sadar and Udharband Revenue Circle is not as per 1991 statement. He stated that L.C. Khas statement of 1974-75 was erroneous. In that statement out of total 37052 bighas of garden land 24000 bighas have been declared as L.C. khas by the Deputy Commissioner, Cachar. The garden management of Haticherra Tea estate approached Deputy Commissioner Cachar for rectification of dag statement declared as L.C khas land of Haticheerra and Subang Garden area. He also stated that plantation area have been declared as ceiling surplus. Accordingly, after obtaining report from ASO, Sadar (Silchar) Revenue Circle, the Addl. Deputy Commissioner Cachar, Silchar passed an ex-parte order dated 30.10.1991 declaring 16821 bighas as ceiling surplus land with direction to serve copy of final statement to all concerned.

Shri Pradip Tusnial added that since Addl. Deputy Commissioner declared 16821 bighas as ceiling surplus land the Tea Garden Management again approached Govt. in Revenue Department and Hon'ble Gauhati High Court to reduce the declared ceiling surplus area of the Garden with a plea that some of the plantation area has also been declared as ceiling surplus land.

After number of communication by tea garden and other authorities finally revealed that the ADC® vide minutes of meeting dated 04.02.2021 directed the ASO, Sadar to prepare dag statement of ceiling surplus land measuring 10635 bighas 11 kathas 13 chataks. Accordingly, the ASO Sadar also submitted the report vide letter dated 08.07.2021.

Again aggrieved with the dag statement submitted by ASO, sadar the garden authority approached the District Administration stating that there is overlapping of dag as shown in the statement of ASO, sadar and the land actually under their possession.

Hence considering above fact and circumstance a meeting was called on 19.01.2022 with all stakeholders.

After threadbare discussion on the meeting it is felt that a verification of recent dag statement by ASO is require with ground situation and statement of ASO prepared during 1991.

The meeting ended with the vote of thanks from the chari.

Sd/-

Add. Deputy Commissioner (R)

Cachar, Silchar

Meme No.CRL/LC-75/2018/Pt-1/117-A Dated Silcahr the Feb, 2022”

13. On bare perusal of the minutes, it is seen that the authorities have decided to cause verification of recent dag statement prepared by the ASO, Sadar with that of ground situation and statement of ASO prepared in 1991.

14. Having considered the submissions made by the learned counsel for both the parties; as agreed to and consented to by the learned counsel for the parties and considering the simple prayer for a direction to consider the claim of the petitioner in terms of the minutes dated 19.01.2022, this writ petition stands disposed of with a direction to the respondent authorities to consider the case of the petitioner in terms of the minutes dated 19.01.2022 within a period of 3 (three) months from the date of receipt of the certified copy of this order.

15. Writ petition stands disposed of with the above direction.

No order as to costs.

JUDGE

Comparing Assistant