

GAHC010161062024



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

Case No. : WP(C)/4029/2024

ARATI DAS
W/O LATE BABUL DAS
RESIDENT OF VILLAGE LOMATI, PS SONAPUR, SUB DIVISION, GUWAHATI
DIST KAMRUPM ASSAM 782401

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM

2:THE DISTRICT COMMISSIONER
KAMRUP (M) HENGRABARI
GUWAHATI 781036

3:THE CIRCLE OFFICER

SONAPUR REVENUE CIRCLE
GOVT. OF ASSAM

4:THE CHIEF ADMINISTRATION OFFICER

AIRFORE STATION
DIGARU
PO SONAPUR
DIST KAMRUPM ASSAM 78240

Advocate for the petitioner(s): Mr. AJ Sarma

Advocate for the respondent(s): Ms. M Barman

Government Advocate, Assam

Ms. S Baruah

CGC

B E F O R E

HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

12.08.2024

Heard Mr. AJ Sarma, the learned counsel appearing on behalf of the petitioner. Ms. M Barman, the learned counsel appears on behalf of the respondent Nos.1, 2 and 3 and Ms. S Baruah, the learned counsel appears on behalf of the respondent No.4.

2. The petitioner is aggrieved by the actions on the part of the respondent No.3 in evicting the petitioner pursuant to issuance of a notice dated 16.07.2024. It is seen from the materials on record that the petitioner earlier used to sale items like fruits, vegetables etc., by keeping items on ground on a cloth/tarpaulin and clearing the complete area in the evening as is being done by the other street hawkers on daily basis and during Saturday Market. The Air Force Station Digaru did not object to the said selling. However, the petitioner slowly by slowly started to use the said area on a permanent basis, *inasmuch as*, the petitioner started occupying the area by a counter table, keeping LPG cylinder, table, crates, chairs etc., and after closing the stall, the petitioner started covering those items with a tarpaulin. In addition to that, the petitioner was also washing

utensils and throwing waste and garbage in and around the area. Under such circumstances, the Air Force authorities requested the petitioner not to do so. However, the petitioner did not agree to the same. It is under such circumstances, the Air Force authorities had to approach the respondent Nos.2 and 3 taking into account that the petitioner was trying to set up a permanent establishment in the roadside reserved land. Pursuant thereto, a notice was issued to the petitioner on 16.07.2024 and the petitioner subsequently was evicted.

3. The learned counsel appearing on behalf of the petitioner submitted that the petitioner has right to vend by setting up of a stall and the State authorities ought not to have evicted the petitioner from the said area.

4. This Court upon perusal of the materials on record and seeing that the petitioner having no conceivable right on the basis of any ownership, lease, or license could not have set up permanent like establishment on a roadside land. Under such circumstances, the eviction of the petitioner on the basis of a notice issued on 16.07.2024 does not call for any interference. Accordingly, the writ petition stands dismissed.

JUDGE

Comparing Assistant