

GAHC010165772022



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

Case No. : WP(C)/5618/2022

ON THE DEATH OF SRI DIJU KUMAR SARMAH, HIS LEGAL HEIR
DHANADA SARMAH
W/O- LATE DIJU KR. SARMAH,
RESIDENT OF WARD NO. 4, TANGLA TOWN,
P.O. AND P.S. TANGLA,
DIST.- UDALGURI, BTAD,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE (SETTLEMENT) DEPARTMENT,
DISPUR, GUWAHATI-781006.

2:THE PRINCIPAL SECRETARY
BODOLAND TERRITORIAL COUNCIL
BODOFA NWGWR
KOKRAJHAR
BTAD
ASSAM.

3:THE DEPUTY COMMISSIONER
UDALGURI
BTAD
ASSAM.

4:THE CIRCLE OFFICER
HARISINGA REVENUE CIRCLE
TANGLA
P.O. TANGLA
DIST.- UDALGURI

BTAD
ASSAM.

5:THE MEMBER SECRETARY
LAND SETTLEMENT ADVISORY BOARD
BHERGAON
CIRCLE OFFICER
KHAIRABARI REVENUE CIRCLE
P.O.- KHAIRABARI

DIST.- UDALGURI
BTAD
ASSAM

Advocate for the Petitioner : MR. J P SHARMA

Advocate for the Respondent : SC, REVENUE

Linked Case : WP(C)/5581/2022

NAVA KUMAR SARMAH
S/O LATE AKSHAY KR SARMAH
R/O WARD NO. 4
TANGLA TOWN
P.O. AND P.S.- TANGLA
DIST.- UDALGURI
BTAD
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
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KHAIRABARI REVENUE CIRCLE
P.O.- KHAIRABARI
DIST.- UDALGURI
BTAD
ASSAM.

Advocate for : MR. J P SHARMA
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 07-02-2024

Heard Mr. J.P. Sharma, learned counsel for the petitioners in both the writ petitions. Also heard Ms. N. Bordoloi, learned Standing Counsel, Revenue [Settlement] Department for the respondent no. 1; Mr. S.R. Rabha, learned Standing Counsel, BTC for the respondent nos. 2, 4 & 5; and Mr. H. Sharma, learned Additional Senior Government Advocate, Assam for the respondent no. 3.

2. As the relief sought for in the two writ petitions is identical, and the issues involved in the two writ petitions are same; both the writ petitions are taken up for disposal at the admission stage, as agreed to by the learned counsel for the parties. It is further submitted by Mr. Rabha that the instructions he has received would be sufficient for the disposal of the both the writ petitions.

3. The writ petition, W.P.[C] no. 5618/2022 was originally filed by one Diyu Kumar Sarmah, who had been substituted by his wife/legal representative later. The writ petition, W.P.[C] no. 5581/2022 is filed by one Sri Nava Kumar Sarmah. Late Diyu Kumar Sarmah and Sri Nava Kumar Sarmah were sons of one Late Akshay Kumar Sarmah.

4. In the writ petition, W.P.[C] no. 5618/2022, the petitioner has claimed that Late Akshay Kumar Sarmah was in possession of a plot of land [Government Khas land] since a long period of time and the area of the said plot of land is 1 Katha, comprised in Dag no. 1563 and Touzi Patta no. 8 and the same is at Tangla Town, Mouza – Dakua, Harisinga Revenue Circle, District – Udalguri, BTAD, Assam [‘the subject-plot no. 1’, for short].

5. In the writ petition, W.P.[C] no. 5581/2022, the petitioner has claimed that Late Akshay Kumar Sarmah was in possession of another plot of land [Government Khas land] since a long period of time and the area of the said other plot of land is 2 Kathas, comprised in Dag no. 1563 and Touzi Patta no. 8 and the same is at Tangla Town, Mouza – Dakua, Harisinga Revenue Circle, District – Udalguri, BTAD, Assam [‘the subject-plot no. 2’, for short].

6. It is the common case of the two petitioners that after the death of Akshay Kumar Sarmah, the petitioners being legal representatives, are in continuous

possession of the subject-plots and in view of their such long possession of the subject-plots they are entitled to be granted allotment/settlement of the subject-plots. For that purpose, they preferred applications for such allotment/settlement. On the basis of their respective applications, the respondent authorities processed the matter for allotment/settlement. The petitioners have stated that the Circle Officer, Harisinga Revenue Circle after processing respective proposals for allotment/settlement, had forwarded those proposals along with necessary reports, to the Member-Secretary of the concerned Land Advisory Board for further consideration. As despite submission of those proposals as far back as in the year 2008, the respondent authorities have not brought the process of allotment/settlement of the subject-plots to any conclusion, the petitioners are before this Court by these two writ petitions seeking a direction to the respondent authorities to process and pass necessary orders as regards allotment/settlement in respect of the subject-plots [the subject-plot no. 1 & the subject-plot no. 2].

7. Mr. Rabha, learned Standing Counsel, BTC who was earlier asked to obtain instructions in the matter, has submitted that he has received instructions in respect of both the writ petitions from the Land Revenue & D.M. Department, BTC vide Communication bearing no. BTC/L.R.580/2022/65 dated 16.10.2023. By placing a copy of the said Communication dated 16.10.2023, Mr. Rabha has submitted that the allotment/settlement [individual] proposals in respect of the two petitioners are under process in the Land Revenue Department, BTC and necessary action would be taken in this regard.

8. Mr. Sharma, learned counsel for the petitioners has submitted that since the proposals for allotment/settlement were sent as far back as in the year

2008, the respondent authorities should bring the entire process to a conclusion in an expeditious manner.

9. In view of the submissions made by Mr. Rabha, learned Standing Counsel, BTC that the allotment/settlement proposals relating to the subject-plots, mentioned hereinabove, are under consideration at the end of the Land Revenue Department, BTC as on date and the decision in that connection would be taken, this Court is of the considered view that instead of keeping these writ petitions pending, the same can be disposed of with a direction to the respondent authorities to bring the proposals regarding allotment/settlement of the subject-plots processed in respect of the petitioners to a conclusion with utmost expedition. It is accordingly ordered. Considering the fact that the proposals for allotment/settlement are pending since 2008, it is observed that the respondent authorities shall bring the process to a conclusion with utmost expedition, but within an outer limit of 3 [three] months from today. It is, however, made clear that this Court has not made any observation as regards the merits of the claims of the petitioners for allotment/settlement of the subject-plots. It is also made clear that the consideration for allotment/settlement of the subject-plots shall be made by the respondent authorities in strict compliance of the extant rules and regulations.

10. This order disposes of both the writ petitions. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant