

GAHC010166622021



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

Case No. : WP(C)/5469/2021

DATCHING BRAHMA
S/O LATE ANISWAR BRAHMA, R/O KOKRAJHAR TOWN, WARD NO. 3,
BORO BHATAMARI, P.O./P.S. AND DIST. KOKRAJHAR, BTC, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. LAND REVENUE
DEPTT., GOVT. OF ASSAM, GUWAHATI.

2:THE PRINCIPAL SECY.
BODOLAND TERRITORIAL COUNCIL
BODOFA NWGWR
P.O.
P.S. AND DIST. KOKRAJHAR
ASSAM
PIN 783370

3:THE SECY.

LAND REVENUE AND HD DEPTT.
BODOLAND TERRITORIAL COUNCIL
DIST. KOKRAJHAR
ASSAM
PIN 783370

4:CIRCLE OFFICER

KOKRAJHAR REVENUE CIRCLE
P.O./P.S. AND DIST. KOKRAJHAR
ASSAM
PIN 783370

5:CHINU NARZARY

W/O SRI RISHAB GANDHAR NARZARY
D/O LATE BUDHESWAR BRAHMA
R/O WARD NO. 3
BHORO BATAMARI
KOKRAJHAR TOWN
P.O./P.S. AND DIST. KOKRAJHAR
ASSAM.
PRESENTLY RESIDING AT
BOLPUR
SHYAMBATI
SHANTINIKETAN
RATANPALI
DIST. BIRBHUM
KOLKATA
WEST BENGAL.

6:DHARMASINGH BRAHAM
S/O LATE BUDHESWAR BRAHAMA
R/O WARD NO. 3
BORO BATAMARI
KOKRAJHAR TOWN
P.O./P.S. AND DIST. KOKRAJHAR
ASSAM
PIN 78337

Advocate for the Petitioner : MR. I A TALUKDAR

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 31.05.2024

Heard Mr.I.A. Talukdar, learned counsel for the petitioner. Also heard Mr. A.R. Sikdar, learned counsel for respondent No.5; Ms. R.B. Bora, learned Standing Counsel, BTC and Ms. M. Malik, learned counsel for respondent No.6.

2. The petitioner is aggrieved by the impugned order dated 09.07.2021 issued

by the Secretary, BTR, Kokrajhar by which the area of land measuring 09 Bighas, 1 kath and 3 Lechas have been allotted to one Smti. Chinu Narzary, who is the private respondent no.5.

3. The learned counsel for the petitioner further submits that as per the land policy, at present only 2 Bighas of land, which can be allotted to persons. That apart, the land which is allotted to the private respondent No.5 is under the possession of the writ petitioner and therefore, without issuance of any notice, the interim order by the BTC not have been issued. He, being aggrieved, has approached this Court praying for appropriate writ directions of order.

4. The respondent No.3 has filed their affidavit contesting the case of the writ petitioner.

5. Although notices have been issued in the matter, today when the matter is called up, learned counsels appearing for the parties are in agreement that the matter can be remanded back to the respondent No.3, namely, the Secretary, Land Revenue and HD Department, Bodoland Territorial Council, Dist-Kokrajhar, Assam to re-decide this issue of allotment in respect of respondent No.5 and pass appropriate orders keeping in view the land allotment policy framed by the State of Assam.

6. In the event if the BTC authorities decide that the land allotted to the respondent No.5 by impugned order dated 09.07.2021 needs to be revisited and a separate land or a lesser amount of land is required to be allotted to respondent No.5 then the amount of premiums stated to have been paid by the respondent No.5 should be refunded or adjusted accordingly.

7. The BTC authorities will examine the claims of the writ petitioner that he was in possession of the land of 09 Bighas, 1 kath and 3 Lechas covered by T.B.

No.37, dag No.01 situated at Chandmari Chit, near Bodofa Cultural Complex, Kokrajhar. The respondent No.3 will proceed to hear the matter and take into account the objections raised by the writ petitioner and/or the private respondents and thereafter pass appropriate orders.

8. The entire exercise be completed within a period of 90 (ninety) days from the date of receipt of the certified copy of this order.

9. Till the matter is decided, the respondent No.5 is directed not to alienate or create third party rights on the plot of land allotted to the writ petitioner by the BTC vide impugned order dated 09.07.2021. The BTC authorities, after hearing the petitioner and the respondent Nos. 5 and 6 will pass a fresh order deciding the issue and copy of such a speaking order shall be served on all the affected parties, including the writ petitioners and respondent Nos. 5 and 6. If the BTC authorities after hearing the matter, passes an order upholding the impugned order dated 09.07.2021 then the petitioner would be at liberty to utilize the land under the provisions of law as permitted.

10. Writ petition, is accordingly, allowed and disposed of. No order as to cost.

11. Interim order, if any, stands vacated.

JUDGE

Comparing Assistant