

GAHC010169202016



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

Case No. : WP(C)/1251/2016

SAMIR CHOUDHURY and 17 ORS
S/O- SRI BASANTA CHOUDHURY.

2: JOGENDRA DAS
S/O- LT. RAJENDRA DAS.

3: PURANJOY DAS
S/O- LT. RAJ MOHAN DAS.

4: SUKH MONI DAS
S/O- LT. THAKUR CHANDRA DAS.

5: BIBHASH CHAKRABORTY
S/O- LT. NRIPESH CHAKRABORTY.

6: HARIPADA CHAKRABORTY
S/O- LT. HARIBAL CHAKRABORTY.

7: KAJAL DAS
S/OO- LT. DARSHAN DAS.

8: KHITISH DAS
S/O- LT. ADHAR DAS.

9: MAHANTA DAS
S/O- LT. DARSHAN DAS.

10: AJIT DAS
S/O- LT. PROMODE DAS.

11: NISHIKANTA DAS
S/O- LT. RAJINDRA DAS.

12: KRISHNA DAS

S/O- LT. ADHAR DAS.

13: RAJENDRA DAS
S/O- SRI NIGAM DAS

14: RABINDRA DAS
S/O- LT. NAGAR BASHI DAS.

15: JAGINDRA DAS
S/O- SRI NIGAM DAS.

16: SUSHILA CHAKRABORTY
W/O- LT. RANJIT CHAKRABORTY.

17: RAM CHAKRABORTY
S/O- SRI RABINDRA CHAKRABORTY.

18: SALYA CHAKRABORTY
D/O- LT. NRIPESH CHAKRABORTY
ALL ARE R/O VILL.- MALINIBEEL
MOUZA TARAPUR
PORGONA BARAKPAR
DIST.- CACHAR
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPTT. SETTLEMENT BRANCH,
DISPUR, GHY- 6.

2:THE DIRECTOR OF LAND RECORDS and SURVEYS
ASSAM
RUPNAGAR
GHY- 32.

3:THE DY. COMMISSIONER
CACHAR
SILCHAR.

4:THE ADDL. DY. COMMISSIONER REVENUE
CACHAR
SILCHAR.

5:THE SETTLEMENT OFFICER
CACHAR
SILCHAR

Advocate for the Petitioner : MR.J SINHA, MR.S P CHOUDHURY

Advocate for the Respondent : SC, DLR, GA, ASSAM,MR.S SARMA

BEFORE

THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

Order

28.08.2024

1. Heard Mr. SP Choudhury, learned counsel for the petitioners.
2. According to the petitioners, they were short listed for allotment of Government khas land measuring 2 Bighas 5 Kathas @ 2 Kathas 8 Ch covered by Dag No. 452 each under Mouza Tarapur-VIII. According to the petitioners, the respondents have delayed the handing over of the land and being aggrieved, this writ petition is filed.
3. An affidavit has been filed on behalf of the respondent No. 3 i.e. the Deputy Commissioner, Cachar admitting that the proposal for settlement was recommended by SDLAC held on 31.12.2010 and the proposal was duly forwarded to the Government of Assam in Revenue and Disaster Management Department, Assam for according approval of the same.
4. The following stands taken in such affidavit, which is important for the adjudication of this case, is quoted hereinbelow.

“8. That with regard to the statement made in paragraph No. 7 of the writ petition is a matter of record. However it is to be stated that the petitioners were in occupation by constructing dwelling house over the acquired land of APDCL (Acquired vide LA case No. 8/2006-07) at Mouza-Tarapur Pt- VIII (B-Town), Pargonah-Barakpar. Subsequently for rehabilitation of the petitioners of this WP(C) who were to be shifted from the proposed extension area of APDCL, Malinibeel a proposal for allotment/ settlement of Govt. Khas land measuring an

area 02(two) Bigha 05(five) katha covered by 2nd R.S. Dag No. 452 under Mouza-Tarapur Pt-VIII, Pargonah-Barakpar, District- Cachar in favour of Sri Samir Choudhury and 17 Ors @ 02 (two) Kath 08 (eight) Chatak each was recommended by the SDLAC held on 31.12.2010 and the proposal has duly been forwarded to the Govt. in Revenue and Disaster Management (S) Department, Assam for according approval of the same on 15.10.2012 vide this office letter No. 53/2010/8, but the allotment/ settlement of Govt. land amongst the petitioner of the WP(C) have been kept under status quo by the Hon'ble High Court vide order dated 26.02.2016 passed in the instant WP(C) referring the order of the Hon'ble High Court dated 31.03.2014 passed in WP(C) No. 530/2011.

Order dated 31.03.2014 of the Hon'ble High Court passed in WP(C) No. 530/2011 does not fall under para-37 which is infect included to Sub Rule 14.3 in Assam Land Policy, 1989. Accordingly, all the proposed beneficiaries i.e. petitioners of the instant WP(C) were issued notices for submission of documents, voter list in support of their permanent residential status by the Assistant Settlement Officer, Sadar Revenue Circle, vide letter No. SCSM.16/2016/1531, dated 25.04.2016 and accordingly the petitioners of the instant WP(C) submitted copy of voter list for the 2008 and 2009 where from it appears that the name of the proposed allottees and petitioners of the instant WP(C) enlisted against Voter list Sl. No. 381, 385, 367, 415, 431, 432, 443, 447, 448, 451, 457, 458, 504, 505, 508, 453, 509 and 636 and at present they have been reportedly residing in their present address, but none of them could produce any documents relating to their previous place residence nor voter list of 1971 or 1966 in support of Indian Citizen."

5. In aforesaid backdrop, the learned counsel for the petitioners submits that the petitioners are in possession of the deficient documents and they will furnish all the details as enumerated in the paragraph No. 8 of the affidavit-in-opposition and in a position to cure the deficiency, for which the final allotment order has not been made.

6. The learned State counsel has also fairly submitted that if that be the position, the present writ petition can be disposed of directing the respondent authorities to reconsider the claim of the petitioners, if they can cure the deficiencies as enumerated in paragraph 8 of the affidavit-in-opposition filed by the Deputy Commissioner. The learned counsel for the petitioners has also submitted that he has no objection, if the course of action proposed by the learned State counsel is directed.
7. Considering the consensus at the bar, the present writ petition is disposed of with the liberty to the petitioners to cure the deficiencies as enumerated in the paragraph 8 of the affidavit filed by the respondent No. 3 and as quoted hereinabove within a period of four weeks from today by way of filing an application as per procedure laid down in this behalf. The concerned authorities shall consider the case of the petitioners in terms of extant land policy and the norms, in the event such defects are cured and fresh applications are filed before the respondent No. 3. The respondent authorities shall consider the claim of the petitioners and pass a speaking order as expeditiously as possible, however not beyond a period of 12 weeks from receipt of fresh application.
8. Accordingly, the writ petition stands disposed of. Parties are to bear their own costs.

JUDGE

Comparing Assistant