

GAHC010177472024



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

Case No. : WP(C)/4421/2024

AMIR HUSSAIN
D/O-LATE JYOTI MAMUD SHEIKH, VILLAGE- KAZIPARA PART I, P.O-
CHAPAR, PIN-783371, DIST- DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF LAND AND REVENUE, ASSAM
DISPUR, GUWAHATI, ASSAM, PIN-781006

2:THE DISTRICT COMMISSIONER
DHUBRI
P.O AND DIST- DHUBRI
PIN-783301
ASSAM

3:THE CIRCLE OFFICER
CHAPAR REVENUE CIRCLE
DIST-DHUBRI
ASSAM

PIN-783371

4:THE SUB-DIVISIONAL OFFICER (CIVIL)

BILASIPARA
DIST- DHUBRI
ASSAM
PIN-783348

5:THE SETTLEMENT OFFICER
CHAPAR REVENUE CIRCLE
CHAPAR

DIST-DHUBRI
ASSAM
PIN-78337

Advocate for the Petitioner(s) : Ms. A. Talukdar

Advocate for the respondent(s): Mr. H. Sharma, Government Advocate

Ms. G. Hazarika, SC, Revenue Department

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 13.09.2024

Heard Ms. A. Talukdar, the learned counsel appearing on behalf of the petitioner; Mr. H. Sarma, the learned counsel appears on behalf of the District Administration. Ms. G. Hazarika, the learned Standing Counsel appears on behalf of the Revenue Department, Government of Assam.

2. The petitioner herein had approached this Court by filing the instant writ petition challenging the notice dated 19.08.2024 whereby the petitioner was directed to vacate the said land within 3 (three) days on the date of receipt of the said letter. This Court vide an order dated 30.08.2024 had directed the respondent authorities not to carry out any eviction till today. It is further seen that the respondent No. 4 has filed an affidavit stating inter alia that the proposal for settlement which was forwarded to the Sub-Divisional Land Advisory Committee was rejected, on the ground that the land wherein the petitioner had sought for settlement is a pond.

3. It is further seen that from the said affidavit that the petitioner's father also has land ad measuring 3 Kathas, 14 Lechas in Dag No. 893 of Patta No. 252 of Kazipara Part-1 in Chapor Mouza under Chapor Revenue Circle.

4. Mr. H. Sharma, the learned counsel appearing on behalf of the District Administration submitted that the petitioner is not entitled to any settlement. In view of the fact, that the petitioner would not come within the ambit of landless indigenous person. He further submitted that the very proposal for settlement over the land in question have already been rejected and as such the question of granting settlement to the petitioner does not arise. He therefore, submitted

that the petitioner over the land in question does not arise for which the Petitioner cannot have a bonafide claim of right involved. Under such circumstances, action may be permitted to be taken in terms with Rule 18(2) of the settlement rules framed under the Assam Land and Revenue Regulations, 1886.

5. Ms. A. Talukdar, the learned counsel appearing on behalf of the petitioner submits that the petitioner was not aware about the cancellation of the land proposal dated 06.08.2024. She further submits that the certificate encloses as Annexure-5 to the affidavit filed by the Respondents is in the name of the father of the petitioner and in terms with the land policy, a son who is residing separately would not come within the ambit of a family. She therefore, submitted she may be permitted to submit a reply to the said notice in view of the Judgement of the Division Bench of this Court in the case of ***Md. Salak Uddin vs The State of Assam and 2 ors***, reported in ***2024 SCC Online GAU 921***

6. I have heard the learned counsels for both the parties and given my anxious consideration to the above of the matter. In the opinion of this Court the question of relegating the petitioner now to again submit a representation would be a useless formality, taking into account that the petitioner was issued notice as on 31.07.2024 and the petitioner was duly heard before issuance of the impugned notice dated 19.08.2024. It is further seen that the land in question is a pond (Water Body). Under such circumstances, the question of granting settlement to the petitioner over the said land does not arise. In addition to that the petitioner's application for settlement has also been cancelled. Under such circumstances, this Court finds no ground to interfere with the impugned notice dated 19.08.2024. The respondents would be at liberty to take due action in accordance with law.

7. Before parting with the record this Court however observes that the petitioner herein, inspite of the rejection of his Settlement proposal by the Sub-Divisional Land Advisory Committee would be at liberty to apply for any other land for settlement subject to confirming to the mandate of the Land Policy, 2019.

8. With the above observation(s) and direction(s) the instant writ petition stands disposed of.

JUDGE

Comparing Assistant