

GAHC010188702024



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

Case No. : CRP(IO)/347/2024

ASSAM STATE HOUSING BOARD AND ANR
INCORPORATED UNDER THE ASSAM STATE HOUSING BOARD ACT, 1972
HAVING ITS REGISTERED OFFICE AT R.G. BARUAH ROAD, KAMRUP(M),
ASSAM, GHY-781005.

2: COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
KAMRUP(M)
ASSAM
GHY-78100

VERSUS

ALOK ROY AND ANR
S/O- LATE APARECH ROY, R/O- WARD NO. I, P.O. RANGAPARA, DIST.
SONITPUR, ASSAM

2:GOBIN KAITAN
R/O- 2ND FLOOR
MAHABIR APARTMENT
BR ARCADE
21 JANAPATH LANE
ULUBARI
P.S. PALTANBAZAR

Advocate for the Petitioner : MR. B J GHOSH, NAYANMONI KALITA,MR. T GOGOI

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

16.09.2024

Heard Mr. B.J. Ghosh, learned counsel for the petitioners.

2. In this petition, under Article 227 of the Constitution of India, the petitioners have directed the impugned judgment and order dated 02.03.2024, passed by the learned Additional District and Sessions Judge, Kamrup (M) at Guwahati, in Sessions Case No. 325/2019.

3. It is to be noted here that vide impugned judgment and order dated 02.03.2024, the learned District and Sessions Judge, Kamrup (M) at Guwahati has dismissed the Sessions Case No. 325/2019, on the basis of a report furnished by Circle Officer, Dispur Revenue Circle.

4. Mr. Ghosh, learned counsel for the petitioners submits that the petitioners have filed an FIR in respect of grabbing of its land, measuring four Kathas (approx), before the Officer In-Charge of Hatigaon Police Station (P.S.). Upon the said FIR, the Officer In-Charge of Hatigaon P.S. had registered a case, being Hatigaon P.S. Case No. 90/2019, under Section 447 of the IPC read with Sections 4 & 5 of the Assam Land Grabbing (Prohibition) Act, 2010. Thereafter, on 10.04.2019, the Investigating Officer (I.O.) of the said case referred the case to the learned Special Tribunal for taking cognizance of the offence of land grabbing, against the respondent Nos. 1 & 2. Thereafter, the learned Sessions Judge, Kamrup (M) at Guwahati, vide order dated 13.05.2019, suo moto registered the case of Hatigaon P.S. No. 90/2019, as Sessions Case No. 325/2019 and thereafter, transferred the case to the learned Special Tribunal for

Assam Land Grabbing (Prohibition) Act cum Additional District & Sessions Judge No. 1, Kamrup (M) at Guwahati for disposal. Thereafter, the learned trial court vide order dated 23.08.2023, had called for a report from the Circle Officer, Dispur Revenue Circle. Thereafter, on receipt of the report from the Circle Officer, Dispur Revenue Circle, the learned tribunal had dismissed the case without taking cognizance. Mr. Ghosh further submits that the petitioners had furnished the initial deposition on 23.08.2023, before the learned trial court, but the learned tribunal without taking the same into account and without affording any opportunity of being heard to the petitioners, had dismissed the case. On such count, Mr. Ghosh submits that the impugned order failed to withstand the legal scrutiny and therefore, the same requires to be interfered with and the matter may be remanded back to the learned tribunal to hear the matter, after affording opportunity to the petitioners.

5. Having heard the submission of learned counsel for the petitioners, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned judgment and order dated 02.03.2024, passed by the learned Additional District and Sessions Judge, Kamrup (M) at Guwahati, in Sessions Case No. 325/2019.

6. It appears that the learned trial court, vide impugned order dated 02.03.2024, without affording any opportunity of being heard to the petitioners and without taking into account the initial depositions of the petitioners, had dismissed the case. Thus, right of the petitioners stands violated.

7. In that view of the matter, this court is of the view that the impugned order dated 02.03.2024, failed to withstand the legal scrutiny for being passed in contravention to the principle of natural justice. Therefore, this court is inclined to set aside the impugned order and to remand the matter to the

learned tribunal afford the petitioners an opportunity of being heard and thereafter, to pass necessary order.

8. In terms of above, this petition stands disposed of, at this motion stage itself.

9. The petitioners shall appear before the learned tribunal within 2 (two) weeks from today.

JUDGE

Comparing Assistant