

GAHC010192022013



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

Case No. : WP(C)/874/2013

PUTUL SAIKIA @ NIPEN
S/O- LT. KETEKI SAIKIA AND LT. NARAYAN SAIKIA, R/O- VILL. NO. 1,
SENCOWA POST OFFICE- ADHAR SATRA, DIST.- GOLAGHAT, ASSAM.

VERSUS

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

2:DY. COMMISSIONER
GOLAGHAT
DIST.- GOLAGHAT
PIN- 785621.

3:ADDL. DY. COMMISSIONER REVENUE
GOLAGHAT
DIST.- GOLAGHAT
PIN- 785621.

4:THE MANAGING DIRECTOR
ASSAM POWER DISTRIBUTION CORPORATION LTD.
BIJULI BHAWAN
GUWAHATI.

5:THE ASSTT. MANAGER
GOLAGHAT ELECTRICAL DIVISION
ASSAM POWER DISTRIBUTION CORPORATION LTD.
GOLAGHAT DIST.- GOLAGHAT
PIN- 785621

Advocate for the Petitioner : MR.T J MAHANTA, MR. T J MAHANTA,MR. A BARUAH,MS.P

BHATTACHARYA,MS.D DUTTA,MR.B BORA

Advocate for the Respondent : MR.S BARUA, MR. T. C. CHUTIA, ADDL. SR. GA, ASSAM,MR. S. DUTTA,SC, REVENUE,GA, ASSAM,MR. A. KASHYAP, SC, APDCL,MR.A NATH

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 12/09/2024

Heard Ms. P. Bhattacharyya, learned counsel for the writ petitioner. Also heard Ms. G Hazarika, learned Standing Counsel, Revenue and Disaster Management Department, Assam, appearing for the respondent no. 1, Mr. T.C. Chutia, learned Additional Senior Government Advocate, Assam, representing the respondent nos. 2 & 3 and Mr. D. Gogoi, learned Standing Counsel, APDCL.

The writ petitioner herein, is the son of late Keteki Saikia, who died on 29/05/2010 leaving behind the petitioner as her sole surviving legal heir. The case of the petitioner, briefly stated, is to the effect that the Additional Deputy Commissioner (Revenue), Golaghat, had earlier issued letter dated 05/06/2001 to the Circle Officer, Golaghat Revenue Circle, forwarding an annual patta standing in the name of the mother of the petitioner covering a plot of land measuring 2 Katha 19 Lechas covered by Dag No. 110/463 and 111/464 of Golampatty Gaon, Moukhowa Mouza in the district of Golaghat. According to the petitioner, the said annual patta was subsequently converted into periodic patta No. 71 of Golampatty Gaon and the petitioner, through her deceased mother, had been enjoying possession and ownership over the aforesaid plot of land. Subsequently, in the month of December, 2012, the petitioner came to know that the Additional Deputy Commissioner, Golaghat, vide order dated 09/01/2012 had allotted the said plot of land, along with other land measuring 2 Bigha 1 Katha 17 Lechas covered by Dag Nos. 109/110 & 111, for setting up of a 33/11 KV Sub-station of the Golaghat Electrical Division of Assam Power Distribution Corporation Ltd. (APDCL), without issuing any notice to the petitioner. Being aggrieved by the order dated 09/01/2012, the petitioner has

approached this Court by filing the instant writ petition.

The stand of the Revenue authorities, as projected through Ms. G. Hazarika, learned Standing Counsel, Revenue and DM Department and Mr. T.C. Chutia, learned Additional Senior Government Advocate, Assam, is that the plot of land in question, was fraudulently converted into a periodic patta land in the name of the petitioner's mother without following the due procedure of law. As such, no right was created in favour of late Keteki Saikia over the plot of land in question. Mr. Chutia has also submitted that notice was issued to the petitioner but it is not clear from the record as to whether he was heard in the matter or not.

Mr. D. Gogoi, learned Standing Counsel, APDCL, submits that pursuant to the allotment of the land in favour of the APDCL in the month of December, 2012, a Sub-station had been set up over the plot of land wherefrom, distribution of power is taking place at present. As such, there is no scope for the petitioner to get back the possession of the land.

Taking note of the arguments made by the petitioner's counsel that the land was taken away without due compliance of principles of natural justice, this Court had called for the departmental records so as to verify the said assertion. After going through the records, it transpires that notice was issued to the petitioner but whether any opportunity of hearing was given to the petitioner or not, is not clear from the departmental records. Mr. Chutia has, however, submitted that the petitioner had submitted his reply in the matter.

Be that as it may, ordinarily an order of this nature passed by the Revenue Authorities would be appealable under Regulation 147 of the Assam Land and Revenue regulations, 1886. However, this Court is of the opinion that the Revenue Authorities must consider the objection raised by the petitioner and pass a formal order in the matter recording its opinion on the claim of the writ petitioner. The question of preferring an appeal will arise only when there is an order passed by the concerned authority addressing the controversy.

As such, without expressing any opinion on the merits of the claims and counter claims of the parties, this writ petition is being disposed of by granting 4 (four) weeks time to the writ petitioner to submit a representation before the Deputy Commissioner, Golaghat, ventilating his grievance in the matter.

In the representation, the petitioner will not only enclose all the relevant documents in support of his claim but shall also mention whether he seeks a personal hearing in the matter or not. Upon receipt of such representation submitted along with a certified copy of this order, the Deputy Commissioner, Golaghat i.e. the respondent no. 2 may give an opportunity of being heard to all the interested parties and thereafter, pass a fresh order in the matter, reviewing the allotment of the land to the APDCL.

The aforesaid exercise be carried out as expeditiously as possible, preferably within a period 3(three) months from the date of receipt of representation, to be submitted by the writ petitioner, in terms of the order of this Court.

If the petitioner continues to remain aggrieved in the matter even thereafter, it will be open for him to avail appropriate legal remedy as may be permissible under the law.

The writ petition is, accordingly disposed of.

Records be returned back.

JUDGE

sukhamay

Comparing Assistant