

GAHC010196142017



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

Case No. : WP(C)/2759/2017

MANIK SHIL
S/OLT. SUDHIR SHILL VILL- SIKARI POTHER P.S. BKALIA MOUZA-
LANGPHER DIST. KARBI ANGLONG, ASSAM

VERSUS

KARBI ANGLONG AUTONOMOUS COUNCIL and 3 ORS.
DIPHU REP. BY THE JOINT SECRETARY, DEPARTMENT OF REVENUE,
KARBI ANGLONG AUTONOMOUS COUNCIL, DIPHU.

2:THE JOINT SECRETARY
DEPARTMENT OF REVENUE
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU

3:THE ASSISTANT REVENUE OFFICER
AND ASSTT. SETTLEMENT OFFICER
PHULANI CIRCLE
OFFICE
PHULANI DIST. KARBI ANGLONG
ASSAM

4:SRI LONGKI TERANG
S/OLT. BURA TERANG VILL- SIKARI PATHAR P.S. BAKULIA DIST. KARBI
ANGLONG
ASSAM PIN - 78246

Advocate for the petitioner(s): Mr. PC Dey

Advocate for the respondent(s): Mr. J Chutia

Standing Counsel, KAAC

Mr. B Baruah for respondent No.4

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

30.09.2024

Heard Mr. PC Dey, the learned counsel appearing on behalf of the petitioner. Also heard Mr. J Chutia, the learned Standing Counsel, KAAC appears on behalf of the respondent Nos.1, 2 and 3 and Mr. B Baruah, the learned counsel appears on behalf of the respondent No.4.

2. The petitioner herein has challenged an order dated 09.09.2016 passed by the Joint Secretary, Department of Revenue, KAAC whereby it was held that the respondent No.4 had acquired the right over the plot of land ad measuring 1 katha 10 lechas covered by Dag No.402/426 of patta No.279 of Village Sikari Pathar under Mouza Langpher by virtue of a deed of gift. Thereupon, the name of the respondent No.4 was duly recorded in the Jamabandi in the office of the Assistant Settlement Officer/Assistant Revenue Officer of Phulani Circle.

3. It is seen from the materials on record that the petitioner herein claims possession over the land on the strength of the unregistered Deed of lease between Sri Jangphong Ronghang which was, however, later on revoked. Be that as it may, vide the impugned order dated 09.09.2016, the Revenue Court

directed the Assistant Settlement Officer, Phulani Circle to hand over possession of the land to the respondent No.4.

4. Being aggrieved, the petitioner has approached this Court.

5. Mr. PC Dey, the learned counsel appearing on behalf of the petitioner submitted that the Revenue Authorities cannot substitute the role of a Civil Court, *inasmuch as*, it is only in proceedings before the competent Civil Court wherein a decree can be passed for recovery of possession. He, therefore, submitted that the impugned order dated 09.09.2016 whereby the Revenue Court had directed the Assistant Settlement Officer, Phulani Circle to hand over the possession to the respondent No.4 is beyond jurisdiction.

6. Mr. J Chutia, the learned Standing Counsel, KAAC appearing on behalf of respondent No.1, 3 and 3 submitted that pursuant to the filing of the instant writ petition, vide an order dated 22.05.2023, the impugned order dated 09.09.2016 had been reviewed and a direction has been issued only to the Assistant Settlement Officer, Phulani, Circle to demarcate the land measuring 1 katha 10 lechas covered by Dag No.402/426 of patta No.279 of Village Sikari Pathar under Mouza Langpher. The said order was placed before this Court during the course of hearing. The same is kept on record and marked with the letter 'X'.

7. Taking into account that the order dated 09.09.2016 had already been reviewed vide the order dated 22.05.2023, nothing, therefore, remains in the challenge to the order dated 09.09.2016 which has been impugned in the instant proceedings.

8. Be that as it may, this Court further finds it relevant to observe that the Revenue authorities cannot in the garb of demarcation disturb the possession of

the petitioner over the land in question. The Revenue authorities can only after making the demarcation issue a demarcation certificate pointing out the area where the land of the respondent No.4 is situated and who is in possession as it appeared from field verification.

9. This Court further observes that the respondent No.4 shall be at liberty to approach the appropriate Civil Court, if so advised for recovery of possession of the land, if after demarcation, it is shown that the land as part of the land of the respondent No.4 is under the occupation of the petitioner.

10. With the above observation and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant