

GAHC010200662024



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

Case No. : WP(C)/4996/2024

MD ALI HUSSAIN @ ALI HUSSAIN
S/O- REJAK HUSSAIN , R/O- GANDHI BASTI, NATUN SARANIA NEAR
RAILWAY LINE, MOUZA- ULUBARI, P.S- CHANDMARI, DIST- KAMRUP (M),
ASSAM, PIN-781003

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE AND DISASTER MANAGEMENT
DEPARTMENT, DISPUR, GUWAHATI- 06.

2:THE DISTRICT COMMISSIONER

KAMRUP METROPOLITAN DISTRICT HENGRABARI
GUWAHATI-36
ASSAM

3:THE CIRCLE OFFICER

GUWAHATI REVENUE CIRCLE
GUWAHATI-24
ASSA

For the Petitioner(s) : Mr. M. K. Sharma, Advocate

For the Respondent(s) : Ms. G. Hazarika, Government Advocate
: Mr. S. Baruah, Standing Counsel

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 25.09.2024

The case of the Petitioner herein is that the Petitioner herein is in possession of a plot of land admeasuring 1 Katha covered by Dag No.1132 of Natun Sarania under Ulubari Mouza in the Sahar Sarania Part-II under Guwahati Revenue Circle by constructing an Assam type house on the said plot of land since 1972.

2. It is also the further case of the Petitioner that the Petitioner had also applied for settlement of the said land on 31.12.2018. However, thereupon no information had been provided by the Respondent Authorities as regards the application for settlement. On the other hand, the Petitioner had been issued notice on 11.09.2024 which the Petitioner had received only on 18.09.2024 that the Petitioner is required to vacate the said land by 27.09.2024. It is the specific case of the Petitioner that the Petitioner cannot be evicted by way of summary procedure on the ground that the Petitioner is an indigenous person and is entitled to settlement as per the Land Policy, 1989 as well as also in terms with Land Policy, 2019. Under such circumstances, the learned counsel for the Petitioner submitted that the Petitioner has a bona fide claim of right involved for which the summary eviction which has been resorted to by the Respondent Authorities is not permissible.

3. This Court having taken into account the above aspects is of the opinion that as to whether the Petitioner can be proceeded with summarily or not can be very well decided by the Revenue Authorities if

an opportunity is given to the Petitioner to submit a representation so that the Petitioner could provide the necessary materials before the Respondent Authorities showing that the Petitioner has a bona fide claim of right involved.

4. Accordingly, this Court therefore disposes of the instant writ petition thereby granting the liberty to the Petitioner to submit a representation within 10 days from the date of the instant order before the Circle Officer, Guwahati Revenue Circle thereby placing the Petitioner's case and further showing that the Petitioner has a bona fide claim of right involved.

5. This Court further directs that in the circumstance the Petitioner submits such representation within the time as provided hereinabove, the Circle Officer, Guwahati Revenue Circle shall consider the said representation and thereupon pass appropriate orders.

6. It is further provided that till such orders are being passed, no coercive action be taken against the Petitioner on the basis of the impugned notice dated 11.09.2024.

7. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant