

GAHC010205192017



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

Case No. : WP(C)/7718/2017

NO. 3 KALIPUR SAKHA SATRA and 2 ORS.
REP. BY ITS PRESIDENT NAMELY GAUTAM SARMA HAVING ITS OFFICE
AT NO. 3 KALIPUR P.O. KUMARIKATA, P.S. TAMULPUR, DIST. BAKSA,
BTAD, ASSAM

2: SRI GAUTAM SARMA
S/O GIRIRAJ SARMA R/O NO. 3 KALIPUR
P.O. KUMARIKATA P.S. TAMULPUR
DIST. BAKSA
BTAD
ASSAM PRESIDENT OF NO. 3 KALIPUR SAKHA SATRA

3: SRI SADANANDA KALITA
S/O LT. ANANTA RAM KALITA
R/O VILL- NO. 4 KALIPUR P.O. KUMARIKATA P.S. TAMULPUR DIST. BAKSA
BTAD
ASSAM
SECRETARY OF THE SATR

VERSUS

THE STATE OF ASSAM and 15 ORS.
REP. BY THE COMMISSIONER AND SECRETARY, GOVT. OF ASSAM
REVENUE DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE COMMISSIONER

AND SECRETARY
GOVT. OF ASSAM
CULTURAL AND ARCHAEOLOGY ETC. DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE DIRECTOR OF CULTURE

ARCHAEOLOGY ETC. DEPARTMENT
DISPUR
GUWAHATI -06.

4:THE DEPUTY COMMISSIONER

BAKSA DISTRICT
AT MUSHALPUR
BTAD
ASSAM

5:THE ADDITIONAL DEPUTY COMMISIONER

REVENUE
BAKSA
DISTRICT AT MUSHALPUR BTAD
ASSAM

6:THE CIRCLE OFFICER

TAMULPUR
DIST. BAKSA
BTAD
ASSAM

7:SRI HITESH TALUKDAR
S/O SRI GAJEN TALUKDAR
R/O VILL- KHAIRABARI
P.O. KUMARIKATA
P.S. TAMULPUR
DIST. BAKSA
BTAD
ASSAM

8:SRI UTPAL DAS
S/O SRI AKHIL DAS R/O VILL- KHAIRABRI
P.O. KUMARIKATA
P.S. TAMULPUR
DIST. BAKSA
BTAD
ASSAM

9:SRI HIMANTA DAS
S/O SRI KIRAN DAS R/O VILL- KHAIRABARI
P.O. KUMARIKATA P.S. TAMULPUR DIST. BAKSA
BTAD
ASSAM

10:SRI DAYAL DAS
S/OLT. RAMZUR DAS R/O VILL- KHAIRABARI
P.O. KUMARIKATA
P.S. TAMULPUR DIST. BAKSA
BTAD
ASSAM

11:SRI AMEN DAS
S/O LT. PAREMASWAR DAS
R/O VILL- KHAIRABARI
P.O. KUMARIKATA
P.S. TAMULPUR
DIST. BAKSA
BTAD
ASSAM.

12:SRI DIJENDRA PATHAK

S/O LT. DALIM PATHAK
R/O VILL- KHAIRABARI
P.O. KUMARIKATA
P.S. TAMPUPUR
DIST. BAKSA
BTAD
ASSAM

13:SRI GUNAJIT DAS
S/O DEHJUR DAS R/O VILL- KHAIRABARI
P.O. KUMARIKATA P.S. TAMULPUR DIST. BAKSA
BTAD
ASSAM

14:SRI RUPAK PATHAK

S/O SRI BHUPEN PATHAK
R/O VILL- KHAIRABARI
P.O. KUMARIKATA
P.S. TAMULPUR DIST. BAKSA
BTAD
ASSAM

15:SRI SUREN TALUKDAR
S/O LT. LAMBUDHAR TALUKDAR
R/O VILL- KHAIRABARI
P.O. KUMARIKATA P.S. TAMULPUR DIST. BAKSA
BTAD
ASSAM

16:MD. ALAUDDIN AHMED
S/O SULTAN ALI R/O VILL- BAHBARI
P.O. KUMARIKATA
P.S. TAMULPUR DIST. BAKSA
BTAD
ASSA

Advocate for the petitioner(s): Mr. MU Mahmud

Advocate for the respondent(s): Ms. G Hazarika

For Revenue Department,
Govt. of Assam
Ms. S Sharma
Government Advocate

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

06.09.2024

Heard Mr. MU Mahmud, the learned counsel appearing on behalf of the petitioners. Ms. G Hazarika, the learned counsel appears on behalf of the respondent No.1 and Ms. S Sharma, the learned counsel appears on behalf of the respondent Nos.2, 3, 4, 5 and 6.

2. The petitioners herein have approached this Court challenging the notice dated 09.11.2017 issued by the respondent No.6 thereby directing the petitioners to vacate the land by breaking the house within 7(seven) days else

legal action would be taken as per the provisions of law.

3. The case of the petitioners herein is that the land, in question, where the petitioners are residing is a land belonging to the Assam Satra Mahasabha and the petitioners have been duly paying the revenue to the said Assam Satra Mahasabha and in evidence to that various receipts have been enclosed. It is the specific case of the petitioners that the said land is not a Government land, but the land of the Assam Satra Mahasabha.

4. Be that as it may, it is, however, seen from Annexure-9 to the writ petition that the Secretary of the Khoirabari and No.3 Kalipur Village Namghar had paid the *touzi bahiri*, which is a penalty for occupation of Government lands.

5. This Court vide order dated 13.12.2017 had issued notice and in the meantime, directed that no coercive action should be taken in pursuant to the impugned notice dated 09.11.2017 issued by the Tamulpur Circle Officer. The interim order, thereupon, has been extended from time to time.

6. It is further seen that the respondent No.6 had filed an affidavit-in-opposition on 03.09.2024, wherein it is categorically mentioned that as per Bedekhali Register of village Khairabari Mouza Kumarikata in Bedekhali Sl.No.40 (Namghar) Khairabari village and 3 No.Kalipur under Government Land Dag No.4(P) area 5 bigha is found mentioned. It was also mentioned that as per Lat Mandal's report, the No.3 Kalipur Sakha Satra, which is the petitioners herein is in possession of the Government land bearing Dag No.4(p) of an area 5 Bigha in village Khairabari.

7. This Court has duly heard the learned counsels appearing on behalf of the petitioners as well as the respondent authorities and has given anxious consideration to the respective submissions. From the materials on record, the

petitioners claim that they have been paying the land revenue to the Assam Satra Mahasabha. There are no documents, placed on record that the petitioners have any right over the land under their occupation or for that matter that the Assam Satra Mahasabha has any right over dag No.4(p) of village Khoirabari and 3 No.Kalipur of Mouza Kumarikata under Tamulpur district, then Baksa.

8. It is also seen that the impugned notice dated 09.11.2017 has been only issued in respect of Government land bearing Dag No.4(p) of an area ad measuring 5 bighas of village Khoirabari Mouza Kumarikata under Tamulpur Revenue Circle in the district of Tamulpur. The contents of the said notice also shows that the petitioners had again encroached upon the said land by making houses, although the land and the boundary had been demarcated.

9. In that view of the matter, as the land, in question, is a Government land and nothing could be shown that the petitioners have a *bona fide* claim of right involved, this Court is not inclined to interfere with the notice dated 09.11.2017.

10. However, this Court grants the liberty to the petitioners to approach the District Commissioner, Tamulpur by submitting a representation within 10(ten) days from today, showing that the petitioners have any *bona fide* claim of right involved in the said land under their occupation. In such circumstances, if any representation is filed, the District Commissioner, Tamulpur shall duly look into it.

11. It is further observed that dismissal of the instant writ petition shall not prejudice the petitioners to apply for settlement of land as per the Land Policy of 2019, if the due conditions are fulfilled.

12. Writ petition, accordingly, stands disposed of.

JUDGE

Comparing Assistant