

GAHC010207982023



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

Case No. : WP(C)/5597/2023

JANAKI KOACH @ JONAKI KOACH AND ANR
W/O LATE DHANESWAR KOACH, R/O SAWKUCHI, LAKHRA, P.O.-
SAWKUCHI, P.S.-GARCHUK, DIST- KAMRUP (M), ASSAM, PIN CODE-781040

2: SMTI AMIYA SONOWAL DEORI
W/O SARAT SINGH DEORI
R/O KAHILIPARA
DAKHIN GAON
P.O.-KAHILIPARA
P.S.-DISPUR
GUWAHATI
DIST-KAMRUP (M)
ASSAM
PIN-78101

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI, PIN CODE-781006

2:THE COMMISSIONER AND SECRETARY GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE DEPUTY COMMISSIONER/DISTRICT COMMISSIONER
KAMRUP (M)
GUWAHATI
PIN CODE-781036

4:THE CIRCLE OFFICER/SUB DEPUTY COLLECTOR
DISPUR REVENUE CIRCLE
GUWAHATI

DIST- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. I CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

14.03.2024

1. Heard Mr. I. Choudhury, learned counsel for the petitioners. Also heard Mr. N. Goswami, learned State Counsel and Ms. P. R. Mahanta, learned Standing Counsel for the Revenue and Disaster Management Department.
2. The petitioner No. 1 is proposing to sell a plot of land to the petitioner No. 2 and accordingly, an application for such sale permission in terms of extant norms and guidelines has been made by the petitioner Nos. 1 and 2 before the competent authority. However, permission of sale has not been granted by the District Administration till date. Being aggrieved, the present writ petition is filed.
3. The petitioner apprehends that the Deputy Commissioner is sitting over the matter for the reason of pendency of a Title Suit No. 764/2022 pending before the learned Civil Judge (Sr. Division-I), Kamrup (M), Guwahati instituted by the daughter of the petitioner No. 1 inasmuch as an injunction is operating in the aforesaid suit.
4. It is the case of the petitioner that though the suit is pending between the petitioner No. 1 and her daughter, however, the subject matter of the suit and the land proposed to be sold by the petitioner No. 1 to petitioner No. 2 is totally different. It is submitted by the learned counsel for the petitioners that the land

proposed to be sold is not the subject matter of the suit.

5. Ms. P. R. Mahanta, learned Standing Counsel for the Revenue and Disaster Management Department submits that the service given by the State under composite land sale transfer is covered under the provision of the Assam Right to Public Service Act, 2012 and a Notification has also been issued in terms of the said Act prescribing the procedure of grant of sale permission.
6. In terms of the Notification issued on 11th November, 2022 for composite land sale transfer, a prescription for hearing of objection is made and such hearing is to be taken by the Additional Deputy Commissioner. Accordingly, Ms. Mahanta, learned counsel submits that this matter may be relegated to the competent authority under the Act of 2012 and the Notification dated 11th November, 2022 for hearing the matter as regards application for sale permission in question. The learned counsel for the petitioner also agrees to such course of action.
7. At this stage, Mr. Goswami, learned counsel on instruction from the Additional Deputy Commissioner submits that in fact, a date for hearing was fixed but hearing could not be taken up for absence of the objector inasmuch the daughter of petitioner No. 1 has already filed an objection objecting to such transfer of land.
8. That being the position, the competent authority shall decide the matter in terms of the aforesaid Act of 2012 and extant norms.
9. Accordingly, the present writ petition is disposed of directing the authorities i.e. the Additional Deputy Commissioner to decide the composite sale transfer application filed by the petitioners in terms of the aforesaid Act of 2012 and Notification dated 11th November, 2022. However it is made clear that a reasonable opportunity of being heard be given to the objector i.e. the daughter

of the petitioner No. 1. Such hearing should be completed within the prescribed period as mandated under extant norms.

10. This writ petition stands disposed of.

JUDGE

Comparing Assistant