

GAHC010238042019



2024:GAU-AS:11864

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

Case No. : WP(C)/7336/2019

BAPKHAT JIBIKA PATH MEEN MAHAL SAMABAI SAMITI LTD. AND ANR.
VILL. BAPKHAT, P.O. PHUKANHAT, P.S PANIGAON, NORTH LAKHIMPUR,
LAKHIMPUR REP. BY ITS PRESIDENT, SRI DHARMESWAR DAS

2: DHARMESWAR DAS
S/O LT. DEBEN DAS
VILL. BAPKHAT
P.O. PHUKANHAT
P.S. PANIGAON
NORTH LAKHIMPUR
LAKHIMPUR PRESIDENT
BAPKHAT JIBIKA PATH MEEN MAHAL SAMABAI SAMITI LTD

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
FISHERY DEPTT. DISPUR, GUWAHATI-781006

2:DEPUTY COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR
REVENUE (SETTLEMENT)
BRANCH

3:ADDITIONAO DEPUTY COMMISSIONER (REVENUE)
LAKHIMPUR
NORTH LAKHIMPU

Advocate for the Petitioner : MR. S BISWAKARMA, MS G DAS,MS. A LONGSU

Advocate for the Respondent : GA, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

29.11.2024

Heard Mr. S. Biswakarma, learned counsel for the petitioners. Also heard Mr. S.R. Baruah, learned counsel for the State respondents.

2. The petitioners have prayed for setting aside the show-cause-notice dated 14.08.2019, by which the petitioner No.1 was directed to show cause as to why Bakijai proceedings should not be initiated against him, on failure to deposit the amount of Rs.1,93,355/-. The petitioners have also prayed for a direction to be issued to the respondents, to consider the representation of the petitioner No.1 to grant remission of revenue.

3. The petitioner's case is that pursuant to a tender process, the petitioner No.1 was awarded settlement of 34 No. Boralimora Fishery, vide order dated 27.09.2012, at its quoted rate of Rs.32,226/- per annum, for a period of 7 years. However, the petitioner No.1 could not fish in the fishery, as the same was allegedly occupied by persons, who conducted illegal fishing therein. As the petitioner's representation for remission of the revenue due to illegal fishing conducted by miscreants was not being considered by the State respondents, the petitioners filed Title Suit No.23/2014 before the Court of Munsiff No.1, North Lakhimpur. In Title Suit No.23/2014 the petitioners did not implead the State respondents as parties. Title Suit No.23/2014 was disposed of ex-parte, vide judgment and order dated 10.06.2015, as follows:-

“The suit of the plaintiff is decreed ex-parte with cost. It is hereby declared that the plaintiffs have right to operate in the suit fishery, by evicting the

defendants from the suit fishery. And thereafter the defendants, their men, their agents, their representatives are permanently restrained from fishing in the suit fishery. Furthermore, the defendants are jointly and severally liable to pay compensation, amounting to Rs 1,50,000/- (one lakh fifty thousand only) to the plaintiffs with a interest of 6% per annum until the full and final realization of the compensation amount.

20. *Prepare decree accordingly.*

Given under my hand and the seal of this court on this the 10th day of June, 2015 at North Lakhimpur."

A decree was accordingly made in Title Suit No.23/2014 on 10.06.2015.

4. The petitioners' counsel submits that the period of settlement of the fishery ended on 26.09.2019, without the State respondents having taken a decision on the prayer of the petitioners, to consider the remission of the revenue payable by the petitioners. Instead Bakijai proceedings has been initiated against the petitioners for recovery of a sum of Rs.1,93,355/-.

5. The petitioners' counsel submits that the fishery has been returned to the possession of the State respondents on 18.06.2018. He submits that the writ petition can be disposed of, if the petitioners are allowed to submit a fresh representation to the State respondents, for considering the petitioners' prayer for remission of the revenue payable by them.

6. Mr. S.R. Baruah, learned counsel for the State respondents has brought the official records and the same does not indicate anywhere that the fishery has been returned to the possession of the State respondents. Mr. S.R. Baruah however submits that the fishery is no longer a fishery and it is now filled with sand. He submits that he has got no objection to the prayer made by the

petitioners' counsel, for submitting a fresh representation with regard to their grievance, which the respondents shall decide within a specified time period.

7. In view of the consent of the parties, the petitioners are given the liberty to submit a fresh representation for remission of the revenue payable by them to the respondent No.1, who shall take a decision on the petitioners' representation, within a period of 3(three) months from the date of receipt of a certified copy of this order. The petitioners are also given liberty to file the fresh representation within a period of 2(two) weeks from today. Till a decision is taken by the respondent No.1, the Bakijai proceedings initiated against the petitioner No.1, for a sum of Rs.1,93,355/-, shall remain stayed.

8. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant