

GAHC010241792017



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

Case No. : WP(C)/6113/2017

MONIRUDDIN AHMED
S/O LT. FAZAL ALI KHADIM OF HAZRAT MOINUDDIN SHAH DARGAH
SHARIF EUSUF NAGAR, PUB BATAGHULI, PANJABARI, GUWAHATI -37,
DIST. KAMRUP M, ASSAM

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

FOREST DEPARTMENT
DISPUR
GUWAHATI -6.

3:THE PRINCIPAL CHIEF CONSERVATOR FOREST

ASSAM
REHABARI
GUWAHATI -8.

4:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GUWAHATI-7.

5:THE DEPUTY COMMISSIONER KAMRUP M

PANBAZAR

GUWAHATI -1.

6:THE COMMISSIONER OF POLICE

GUWAHATI CITY
PANBAZAR
GUWAHATI-1.

7:THE DIVISIONAL FOREST OFFICER

KAMRUP EAST DIVISION
GUWAHATI-8.

8:THE DIRECTOR OF LAND RECORD AND SURVEY
ASSAM
RUPNAGAR
GUWAHATI -32.

9:THE OFFICER IN CHARGE

AMCHANG WILDLIFE SANCTUARY
BONDA
GUWAHATI -26

Advocate for the Petitioner : MR.N ZAMAN

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 11-03-2024

1. Heard Mr. T Chetri learned counsel appearing on behalf of Mr. A Ganguly learned counsel for the petitioner. Also heard Mr. BJ Talukdar learned senior counsel assisted by Mr. P.K. Medhi, learned counsel appearing on behalf of respondent Nos.1, 4, 5, 6, 8 and 9.

2. The case of the petitioner is that the petitioner was allotted with 2 bighas government land covered by Dag No.78 vide

letter dated 23.03.1990 by the Deputy Commissioner, Kamrup. It is their case that the said land was allotted and reserved for Hazrat Moinuddin Sah Dargah Sharif.

3. The petitioner's further claim that in terms of the said allotment letter the Dargah Sharif was constructed, however, the revenue authority demolished the said Dargah Sharif on the ground that the is same being constructed over grazing reserve.

4. During the course of proceeding by an order dated 20.11.2023 this court has asked for an instruction about the letter bearing No.KRS-119/90/5 (KA) dated 23.03.1990, on the basis of which the petitioner claims that they were allotted with the land. The remark in the chita entry, which has been annexed with the writ petition by the petitioner to substantiate his claim, reflects that the said decision to allot the plot of land was not in exercise of the independent authority of the Circle Officer, Sonapur Revenue Circle but the Circle Officer acted upon the instruction contained in the letter dated 23.03.1990 of the Deputy Commissioner.

5. Further during the course of hearing on 15.12.2023, Mr. BJ Talukdar learned senior counsel for the respondent has placed a letter dated 04.12.2023, whereby the Deputy Commissioner informed this court that there are no records in the Office of the Deputy Commissioner, Kamrup (M) relating to letter dated 23.03.1990.

6. In the aforesaid backdrop and for the reason that the Deputy Commissioner himself has made an assertion that there is no existence of such communication, this court in its order dated 20.11.2023 observe that now the petitioner is required to produce the

supporting materials as regards the existence of the letter dated 23.03.1990 from the Office of the Deputy Commissioner, Kamrup (M). Thereafter the matter was again listed on 02.02.2024.

7. On the failure of the petitioner to substantiate its claim, this court observed that if the petitioner is not willing to substantiate his claim in terms of order dated 15.12.2023, this court will pass appropriate orders on the next date fixed.

8. When the matter is listed today, the learned counsel for the petitioner submits that Mr. A Ganguly learned counsel for the petitioner has already issued a communication to the petitioner by registered speed post seeking clarification in terms of this court's order dated 15.12.2023, however, his client has not responded till date. It is also submitted that the learned counsel for the petitioner has not been able to contact their client.

9. In the aforesaid backdrop and in the backdrop of the assertion of the Deputy Commissioner that there are no records in the Office of the Deputy Commissioner, Kamrup (M), relating to letter dated 23.03.1990, it will not be possible on the part of this court in exercise of power of judicial review to enter into such disputed fact whether the land was allotted in terms of the order of the Deputy Commissioner dated 23.03.1990 or no such communication or records exists in the Deputy Commissioner office.

10. In view of the aforesaid, this writ petition stands closed, however, with a liberty to the petitioner to approach the appropriate forum where such disputed question of fact as well as petitioners right can be decided.

11. With the aforesaid determination and observation, this writ petition stands closed.

JUDGE

Comparing Assistant