

GAHC010244912017



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

Case No. : WP(C)/7825/2017

FAIZUL ISLAM and 5 ORS

2: AJIJUL ISLAM

3: MD. KAMRUL ISLAM

4: MD. JAMIRUL ISLAM

5: MD. RUHUL ISLAM
ALL ARE SON OF LT MD. IBRAHIM ALI
R/O- VILL- PACHIM DHANIRAM PATHAR
MAUZA- HOJAI
P.S.-HOJAI
PIN-782435
DIST- HOJAI
ASSAM

6: MUSST. SAMIRUN BEGUM LASHKAR
W/O- MUSSABIR ALI LASKAR
R/O- VILL- PACHIM DHANIRAM PATHAR
MAUZA- HOJAI
P.S.-HOJAI
PIN-782435
DIST- HOJAI
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY COMMISSIONER and SECRETARY TO THE GOVT. OF

ASSAM, REVENUE DEPTT., DISPUR, GHY-6

2:THE DEPUTY COMMISSIONER

HOJAI

PH- 782435

P.S.-HOJAI

DIST- HOJAI

ASSAM

3:THE ADDITIONAL DEPUTY COMMISSIONER

HOJAI CUM S.D.O. C PIN- 782435

P.S.-HOJAI

DIST- HOJAI

ASSAM

4:THE CIRCLE OFFICER

HOJAI REVENUE CIRCLE

HOJAI

PIN- 782435

P.S. HOJAI

DIST- HOJAI

ASSA

For the petitioner (s) : Mr. Sk. S. N. Mohammad, Advocate

For the respondent (s) : Ms. V. Das, Advocate

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

08.01.2024

The instant writ petition has been filed by the petitioners seeking a direction upon the respondent authorities for allotment of the land to the petitioners and also pending disposal of the instant writ petition, the petitioners should not be evicted from the land presently under their occupation.

2. It is the case of the petitioners that the petitioners have been

occupying the land in Dag No.8 of West Dhaniram Patha of Hojai in the district of Hojai since 15/20 years and they have been paying Tauzi-Bahi revenue from 2008.

3. Before proceeding further, this Court however finds it very pertinent to observe that the payment of Tauzi revenue is only a payment of penalty for unauthorized occupation of Government land. Be that as it may, the petitioner Nos.1 & 2 had submitted a representation dated 21.12.2008 before the Department of Revenue through the Forest and Tourism Minister, Government of Assam and they were awaiting allotment of Government land. It is also mentioned that the other petitioners had also approached the Deputy Commissioner verbally and physically requested the Deputy Commissioner to allot the land in their names. It is also mentioned in the writ petitioner that there are certain correspondences initiated by the Circle Officer as regards the application so filed by the petitioners for allotment of their land. However, it is also apparent that there was no allotment of any land in favour of the petitioners and the petitioners are still occupying the Government land. It is the further case of the petitioners that the petitioners had come to learn that the Authorities were taking steps to evict them for which the instant writ petition has been filed.

4. The record reveals that this Court had issued notice vide the order dated 15.12.2017. There was no interim order so passed. It has been submitted by Mr. Sk. S. N. Mohammad, the learned counsel appearing on behalf of the petitioners that the petitioners are still enjoying possession over the said land and there have not been evicted so far.

5. I have also heard Ms. U. Das, the learned Additional Senior

Government Advocate who submits that in view of the Land Policy of 2019, the petitioners have now to fleshly apply if they want any settlement. The learned Additional Senior Government Advocate submits that she has no instructions as to whether the petitioners have in the meantime been evicted from the said land.

6. Taking into account the above, this Court is of the opinion that the petitioners should be given an opportunity for the purpose of applying in terms with the Land Policy of 2019 and the Settlement Rules.

7. Accordingly, the petitioners herein are given the liberty to apply within 30 (thirty) days from the date of the instant order before the Deputy Commissioner, Hojai in terms with the Land Policy of 2019 and the Settlement Rules and if the petitioners in the meantime have not been evicted from the land in question, then the petitioners should not be evicted till such applications are disposed of by the concerned respondent authorities.

8. It is however made clear that if the petitioners fail to file the application within 30 (thirty) days from today, the respondent authorities shall be at liberty to take such action as deemed fit for eviction, if not already taken

JUDGE

Comparing Assistant