

GAHC010253152023



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

Case No. : WP(C)/6518/2023

MURAD AHMED
S/O- LATE RAFIQUE AHMED,
R/O- NEPALI PATTY, TEZPUR TOWN,
P.O. AND P.S.- TEZPUR,
DIST.- SONITPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
DEPARTMENT OF HOUSING AND URBAN AFFAIRS,
ASSAM SECRETARIAT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR
MUNICIPAL ADMINISTRATION
DISPUR GUWAHATI-06.

3:THE TEZPUR MUNICIPAL BOARD
REPRESENTED BY ITS CHAIRMAN
TEZPUR PIN -784001

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER

Date : 21.03.2024

Heard Ms. R. Choudhury, learned counsel for the petitioner and Ms. U. Das, learned counsel for the respondent Nos. 1 & 2. No one appears for the

Tezpur Municipal Board.

2. The case of the petitioner is that the petitioner is a tenant under the Tezpur Municipal Board, having a shop bearing No. 154A at Chowk Bazar, Tezpur. The shop is in one room, which was earlier numbered as 154 in the name of Year Ali. The said shop was thereafter divided into two shops. Room No. 154B has been allotted to Mr. Year Ali, which is now with the legal heirs of Mr. Year Ali, while room No. 154A had been allotted to the petitioner. Due to a fire that occurred on 08.05.2021, all the shops of the markets including the petitioner's shop burnt down. The Tezpur Municipal Board thereafter provided financial assistance to all the affected shop keepers and allowed them to reconstruct their shops. However, the petitioner and Mr. Year Ali were not provided financial assistance and neither were they allowed to reconstruct their respective shops, on the pretext of pendency of a property dispute between Mr. Year Ali and the petitioner vide RSA 105/2019, which was pending before this Court.

3. Ms. R. Choudhury, learned counsel for the petitioner submits that RSA 105/2019 has been disposed of by this Court, vide judgment dated 21.07.2023, wherein this Court has upheld the judgment dated 20.07.2018 passed by the learned Civil Judge, Tezpur in Title Appeal No. 12/2016.

4. On perusing the records, I find that in para No. 32 of the judgment dated 20.07.2018 passed in Title Appeal No. 12/2016, it was held that the plaintiff Year Ali had right, title and interest as tenant in respect of the room No. 154B only and not the whole room No. 154, which also comprised of room No. 154A.

5. In view of the affirmation of the judgment passed by the First Appellate

Court in Title Appeal No. 12/2016 by this Court in RSA 105/2019, the present petitioner has the right, title and interest as a tenant in respect of room No. 154A. Accordingly, there is no reason to deny the petitioner the benefits that were given to other shop keepers, whose shops had been burnt down. As the petitioner has submitted a representation dated 01.08.2023 before the Tezpur Municipal Board to allow him to reconstruct his shop and for renewal of his trade licence, the Chairman of Tezpur Municipal Board is directed to take a decision on the petitioner's representation dated 01.08.2023, within a period of 1 (one) week from the date of receipt of a certified copy of this order, keeping in view the fact this Court has upheld the fact that the petitioner was a tenant of room No. 154A.

6. This writ petition is accordingly disposed of.

JUDGE

Comparing Assistant