

GAHC010258042022



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

Case No. : WP(C)/8210/2022

HEMADHAR GOGOI
S/O LATE SOKHESWAR GOGOI,
RESIDENT OF VILL. KHUBALIA,
P.O.- KHUBALIA, MAUZA, P.S. AND DIST.- DHEMAJI, PI- 787057.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
REVENUE DEPARTMENT, DISPUR,
GUWAHATI-6, DIST.- KAMRUP(M),
ASSAM.

2:THE DEPUTY COMMISSIONER
DHEMAJI
DIST.- DHEMAJI
ASSAM

PIN- 787057.

3:THE ADDL. DEPUTY COMMISSIONER
DHEMAJI (REVENUE)
DIST.- DHEMAJI
PIN- 787057.

4:THE CIRCLE OFFICER
DHEMAJI
DHEMAJI REVENUE CIRCLE

DHEMAJI- 787057
ASSAM.

5:KUSHAL GOGOI
S/O LATE JIBON GOGOI

RESIDENT OF VILLAGE- KHUBALIA

DIST.- DHEMAJI
PIN- 787057

ASSAM

Advocate for the Petitioner : MR. P TALUKDAR

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 29.04.2024

Heard Ms. D. Angana, learned counsel for the petitioner. Ms. P. R. Mahanta, learned standing counsel of the Revenue Department for the respondent no.1; Mr. J. Handique, learned Govt. Advocate for the respondent nos.2 to 4; Mr. U. S. Borgohain, learned counsel for the respondent no.5.

2. In this writ petition, it is projected that the land measuring 2 katha 10 lecha, covered by Dag no.359 of Patta no.261 of village- Khubalia, Mouza- Dhemaji was standing in the name of Late Sukheswar Gogoi, the father of the petitioner. However, it is alleged that the said land was illegally mutated in the name of respondent no.5, namely, Kushal Gogoi. Although the petitioner has submitted representations before the District Commissioner, Dhemaji on 18.05.2022, 01.07.2022 and 17.10.2022, as no action was taken, this writ petition has been filed under Article 226 of the Constitution of India.

3. We find that the Assam Land and Revenue Regulation, 1886 contains specific provisions for filing of Appeal against order of mutation passed by the Land Revenue Authorities in the district.

4. On a query of this Court, the learned counsel for the petitioner has submitted that formal appeal was not filed but representations were submitted on three occasions.

5. Be that as it may, alternative remedy is prescribed in the Assam Land and Revenue Regulation, 1886.

6. We also take note of the stand taken by the respondent no.5 in his affidavit-in-opposition, where he has claimed that the land was purchased vide Registered Sale Deed no.21 dated 06.01.2022 on payment of valuable consideration. Thus, if the petitioner wants to assail the same, other alternative remedy is available in law.

7. In view of the alternative remedy available against the order of mutation, and moreover from the facts of this case, it appears that disputed questions of facts would be required to be adjudicated, this writ petition is not maintainable. Therefore, the Court declines to entertain this writ petition.

8. Accordingly, this writ petition stands closed with liberty to the petitioner to avail such alternative remedy as he may be so advised.

JUDGE

Comparing Assistant