

GAHC010264342017



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

Case No. : WP(C)/7421/2017

BOKAJAN SHARBA JANIN KALIBARI COMMITTEE
REPRESENTED BY ITS PRESIDENT SRI CHANDAN PATIKAR S/O- SRI AJOY
KR. PATIKAR R/O- BOKAJAN, WARD NO. 4 P.O. and P.S.- BOKAJAN DIST-
KARBI ANGLONG, ASSAM PIN- 782480

VERSUS

THE UNION OF INDIA and 7 ORS.
REPRESENTED BY THE GENERAL MANAGER, NORTH FRONTIER
RAILWAY, MALIGAON, GHY-11

2:THE DIVISIONAL RAILWAY MANAGER
N.F. RAILWAY
LUMDING
ASSAM
PIN-782447

3:THE ESTATE OFFICER
N.F. RAILWAY
LUMDING
ASSAM
PIN- 782447

4:THE SENIOR SECTION ENGINEER
WORKS
N.F. RAILWAY
DIMAPUR
PIN-797112

5:THE DIVISIONAL ENGINEER/IV
N.F. RAILWAY
LUMDING

PIN-782447

6:THE STATE OF ASSAM
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GHY-6

7:THE KARBI ANGLONG DISTRICT AUTONOMOUS COUNCIL
REPRESENTED BY THE SECRETARY
EXECUTIVE COMMITTEE
KARBI ANGLONG
DISTRICT COUNCIL
ASSAM
PIN-782460

8:THE APPELLATE AUTHORITY
DIST. JUDGE
KARBI ANGLONG
ASSAM PERSONA DESIGNATE AS PER ASSAM PUBLIC PREMISES
EVICION OF UNAUTHORIZED OCCUPANTS ACT
197

Advocate for the Petitioner : MR.S B PRASAD

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

02.04.2024

Heard Mr. S.B. Prasad, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Standing Counsel NF Railway.

2. This writ petition has been filed against the impugned Order dated 30.12.2014 passed by the Senior Section Engineer (Works) NF Railway, Dimapur and Orders dated 22.01.2015 and 14.02.2015 passed by the Divisional Engineer/IV, NF Railway, Lumding issued to the petitioner members asking to

vacate within 10 days.

3. The brief fact of the case is that the licenses of the members of the petitioner society were cancelled on the ground that the land is required by Railway for its works. The writ petitioner, which is Bokajan Sharbad Janin Kalibari Committee represented by its President challenged the said cancellation orders issued to various persons by filing the instant writ petition.

4. The petitioner's Committee preferred an appeal under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 being a Misc. Civil Appeal No. 01/2015 against the aforesaid cancellation of licenses of the members of the petitioner's Committee. The said Misc. Appeal was disposed of by the Court of the District Judge, Karbi Anglong vide Judgment & Order dated 06.11.2017 by holding that the appeal petition was totally silent as to who were the members of the present writ petitioner's society. Accordingly, the Court of the District Judge, Karbi Anglong held the aforesaid appeal not maintainable.

5. Mr. S.B. Prasad, learned counsel for the petitioner submits that the members of the petitioner's society are the effected parties and on behalf of them, the society has filed an appeal before the Court of the District Judge, Karbi Anglong. He further submits that accordingly, the writ petition is maintainable.

6. The learned counsel for the petitioner further submits that the appeal was held to be pre-matured as no document was brought on record to show that requisite notices under Section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 were served to the members.

7. Mr. B. Sharma, learned Standing Counsel NF Railway on the other hand submits that the writ petition is not maintainable. He submits that there is no authorization on record to show that the society has been authorized by the effective parties to file the present writ petition. He further submits that there was no letter of authority brought on record before the Court of the District Judge, Karbi Anglong at the time of hearing of the appeal and as such, the appeal was held not maintainable.

8. I have heard the submissions made at the bar and have perused the materials available on record.

9. Pertinent to refer to the cancellation orders of the subject license enclosed as Annexure-8 (1) series to the writ petition. One of such cancellation order is reproduced hereunder for ready reference:-

“N.F.Railway

*Office of the
Divl.Rly.Manager(Works)
Lumding.*

No. W/214/BXJ/L/W-4

Date: 22.01.2015

*To
Sri Achya Lal Jaiswal
Licence Plot Holder of Plot No. 95
at Bokajan of area 24.0 sqm
Through SSE(W)DMV*

Sub:- Cancellation of license of land license at Bokajan.

The License of above mentioned Plot at Bokajan station on Railway land is hereby cancelled as the land is now required by Railway for its works. You should vacate the land within 10 (ten) day and remove all the structure from the Railway land within this period.

*Divisional Engineer/IV
N.F.Railway, Lumding.*

Copy to:-

(1) SSE/(W)/DMV- He is advised to handover the letter to the Plot holder with proper Acknowledgement and send the acknowledgement copy to this office immediately.

(2) ADEN/DMV- for information and necessary action against Plot No.

*Divisional Engineer/IV
N.F.Railway, Lumding."*

10. Perusal of the said orders enclosed as Annexure-8 (1) series from page Nos. 73 to 145 indicates that the licenses of individual persons were cancelled by the Railway authorities. Though the aforesaid persons appears to be members of the petitioner's Committee, no letter of authorities in favour of the petitioner's Committee to represent the effected persons has been placed before this Court. Further, it appears from paragraph No. 8 of the order of the appellate Court dated 06.11.2017 that no authority was produced before the appellate Court either. Paragraph No. 8 is reproduced hereunder for ready reference:-

"8. Appellant is a society named Bokajan Sarbajanin Kalibari Committee registered under the Societies Registration Act. XXI of 1860, vide registration No. KARBI/249/57. And the same is represented by its president Shri Chandan Patikar. No copy of resolution of the said committee showing that its President was authorized to file this appeal has been submitted. No power of attorney whereby the President Shri Chandan Patikar was authorized to file this appeal. The learned advocate appearing on behalf of the respondents has submitted that only the person who became aggrieved and injured with the impugned order can prefer and appeal against the said order. In the Code of Civil Procedure "appeal" has not been defined. One law Dictionary defines "appeal" as a proceeding taken to rectify an erroneous decision of a lower court by submitting the question to a higher court or court of appeal. Right to appeal under the Public- Premises Act is a

creation of statute and is not an inherent right. There is no whisper in the appeal memo as to how the appellant society became aggrieved with the impugned orders. Rule 1 of Order 1 of the CPC relates to the suit. No notice was served upon the appellant society in respect of impugned orders. Rule 1 of Order 1 of the CPC relates to the suit. No notice was served upon the appellant society in respect of impugned orders.”

11. It is absolutely clear from the materials available on record, that there is no whisper in the writ petition as to how the petitioner’s society became aggrieved with the impugned orders. The petitioner’s society being not aggrieved cannot by any stretch of imagination be said to be an aggrieved person and hence, does not have the locus standi to maintain the present writ petition. As such, the present writ petition is not maintainable.

12. Accordingly, the writ petition stands dismissed.

JUDGE

Comparing Assistant