

GAHC010270902019



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

Case No. : WP(C)/8242/2019

ABDUL BAREK AND 6 ORS.
S/O. LT. ABDUL MOJID, VILL. NAYERALGA PT.III, P.O. NAYERALGA, P.S.
BILASIPARA, DIST. DHUBRI, ASSAM, PIN-783348.

2: JILIMUDDIN
S/O. LT. ABDUL MOJID
VILL. NAYERALGA PT.III
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348.

3: ELIM SHEIKH
S/O. LT. ABDUL MOJID
VILL. NAYERALGA PT.III
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348.

4: KARIM SHEIKH
S/O. LT. ABDUL MOJID
VILL. NAYERALGA PT.III
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348.

5: SAMSUL HOQUE
S/O. LT. ABDUL MOJID
VILL. NAYERALGA PT.III

P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348.

6: SHAJAHAN ALI
S/O. LT. ABDUL MOJID
VILL. NAYERALGA PT.III
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348.

7: ARJAHAN ALI
S/O. LT. ABDUL MOJID
VILL. NAYERALGA PT.III
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, REVENUE
DEPTT. DISPUR, GUWAHATI-06.

2:THE DY. COMMISSIONER

DHUBRI
P.O. AND P.S. DHUBRI
DIST. DHUBRI
ASSAM
PIN-783301.

3:THE SETTLEMENT OFFICER

DHUBRI AND KOKRAJHAR
DHUBRI
P.O. AND P.S. DHUBRI
DIST. DHUBRI
ASSAM
PIN-783301.

4:THE ASSTT. SETTLEMENT OFFICER

BILASIPARA
P.O. AND P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348.

5:MOKSHED ALI
S/O. LT. MOIDALI SK.
R/O. VILL. NAYERALGA PT.III
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348.

6:MOHEZ ALI

S/O. LT. MOIDALI SK.
R/O. VILL. NAYERALGA PT.III
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348.

7:FAZAR ALI

S/O. LT. MOIDALI SK.
R/O. VILL. NAYERALGA PT.III
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348

Advocate for the Petitioner(s) : Md. A. Hussain

Advocate for the Respondent(s) : Mr. N. Goswami
Mr. N. Bordoloi
Mr. M.R. Khandakar

Date of Hearing and Judgment : 02.08.2024

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGEMENT AND ORDER (ORAL)

Date : 02.08.2024

Heard Md. A. Hussain, the learned counsel appearing on behalf of the petitioners. Ms. N. Bordoloi, the learned counsel appears on behalf the respondent No. 1; Mr. N. Goswami, the learned counsel appears on behalf the respondent Nos.2, 3 & 4 and Mr. M.R. Khandakar, the learned counsel appears on behalf of the respondent Nos. 5 to 7.

2. The instant writ petition has been filed by the petitioners challenging the order dated 19.12.2015 passed in Misc Appeal No. 14/15 by the Settlement Officer, Dhubri. In addition to that, the petitioners have also assailed the communication dated 10.10.2019 issued by the Assistant Settlement Officer, Bilasipara, and has sought for a direction upon the respondent authorities more particularly, the respondent Nos. 3 and 4 to make correction of the land records pertaining to new Dag No. 2822 and 2825 under Patta No. 1612 at Village-Nayeralga Pt-III by adding the land measuring 4 Bighas, 2 Kathas, 2 Lechas in the name of the petitioners as per the Deed Of Sale bearing Deed No. 1945/2169 and 139/147. This Court has duly perused the materials on record.

3. It is seen that there are disputes between the Petitioners and the private respondents over the plot of land measuring 4 Bighas, 2 Kathas, 2 Lechas covered by Dag No. 2822 and 2825 under Patta No. 1612 at Village Nayeralga Pt-III under Bilasipara Revenue Circle.

4. It is further seen from the order of the Settlement Officer dated 19.12.2005 that a direction was issued to the Assistant Settlement Officer to correct the area of the land of new Dag No. 2825 comprising of old records from 2 Bigha, 0 Katha, 8 Lechas to 4 Bighas, 4 Kathas, 0 Lecha. This order was passed on 19.12.2015 by the Settlement Officer, Dhubri but as the said order was not complied with by the concerned respondent authorities, the private respondents herein approached this Court by filing a writ petition being WP(C) No. 3115/2017. This Court vide an order dated 10.06.2019 directed the Assistant Settlement Officer to make correction in terms with the order of the

Settlement Officer dated 19.12.2015. It is in pursuant to that, the corrections were made and the impugned letter dated 10th October, 2019 was issued.

5. This Court upon hearing the learned counsel for the parties is of the opinion that the orders which the petitioners seek by way of the instant writ petition would be would amount to sitting on appeal against the order passed by the Coordinate Bench on dated 10.06.2019 in WP(C) No. 3115/2017. The petitioners herein have neither filed a Writ Appeal challenging the order dated 10.06.2019 passed by this Court nor filed any review application. After almost four year from the passing of the order dated 19.12.2015, the present writ petition had been filed.

6. Be that as it may, it has been also brought to the attention of this Court that the private respondents herein have filed a suit being Title Suit No. 101/2021, which is presently pending before the Court of Munsiff cum Civil Judge, Bilasipara wherein the issue of right, title and interest in respect to the land in question is pending. It is a well settled principle of law that an adjudication made by Civil Court in respect to a right, title and interest over the land would be binding on the Revenue Courts. This Court is of the opinion that the order dated 19.12.2015 by the Settlement Officer which is the subject matter of challenge before this Court would also be subject to the outcome of the said suit. The petitioners herein are also at liberty to file a suit, if so advised seeking their right, title and interest over the land in question.

7. Under such circumstances, it is the opinion of this Court that this is not a fit case for exercising the jurisdiction under Article 226 of the Constitution. Accordingly the writ petition stands dismissed subject to the observation made herein above.

8. Before parting with the record, this Court finds it relevant to take notice of the submission made by the learned counsel for the petitioners who submits that vide the impugned order dated 19.12.2015, the Dags mutated in favour of the petitioners have been deleted. As observed above, this Court would not like to enter in the merit of the said dispute taking into account that the order dated 10.06.2019 passed by this Court have not been challenged. However, the petitioners would always be a likely to file a suit seeking appropriate declarations and the decision thereon by a Competent Court of civil jurisdiction would always prevail over any adjudication made by the revenue authorities.

JUDGE

Comparing Assistant