

GAHC010274152024



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

Case No. : WP(C)/6881/2024

EVA AIND KULLU
D/O- HARIHOR AIND, R/O- HOUSE NO. 01, NO. 1 ANANDA NAGAR
REFINERY ROAD, P.O. AND P.S. NOONMATI, DIST.- KAMRUP (M), ASSAM,
PIN- 781020

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, FOREST AND ENVIRONMENT DEPARTMENT,
DISPUR, GUWAHATI-06

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FOREST AND ENVIRONMENT DEPARTMENT
DISPUR
GUWAHATI-06

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
MINES AND MINERALS DEPARTMENT
DISPUR
GUWAHATI-6

4:GUWAHATI MUNICIPAL CORPORATION
REPRESENTED BY TS COMMISSIONER
BHANGAGARH
ASSAM
GUWAHATI- 05

5:GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER

BHANGAGARH
ASSAM
GUWAHATI-0

Advocate for the Petitioner : MR H A AHMED, MR. MUSTAFA HUSSAIN

Advocate for the Respondent : GA, ASSAM, SC, G M D A, SC, GMC, SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

19.12.2024

1. Heard Mr. M. Hussain, learned counsel for the petitioner, who submits that the petitioner is the owner of a plot of land measuring 2 Kathas 4 Lechas covered by Dag No.1989, Patta No.232 (New) of Village – Noonmati under Ulubari Mouza, Circle-Guwahati, District-Kamrup (M), Assam.
2. The petitioner applied for building permission under the “Mukhya Manti Sohoj Griha Nirman Achari” and the building estimate was approved and sanctioned by the Guwahati Metropolitan Development Authority (GMDA) and by the Guwahati Municipal Corporation (GMC). The File Number of the petitioner is GMDA/PP/MMSGNA/20241212/0009973.
3. The petitioner is aggrieved by the fact that after approval and sanction had been given by the GMDA and the GMC, 2% Forest Royalty has been demanded vide communication dated NIL.
4. The petitioner’s counsel submits that the Forest Royalty has been

demanded as per Notification dated 07.10.2021 published in the Assam Gazette on 11.10.2021, which had been extended to private agencies, vide communication dated 02.03.2023 issued by the Joint Secretary to the Government of Assam, Mines and Minerals Department.

5. The petitioner's counsel submits that Forest Royalty cannot be demanded when the petitioner is going to construct her own building on her own land.

6. Ms. M. Kalita, learned counsel for the Forest Department, Mr. K. Gogoi, learned counsel for the respondent no.3 and Mr. S. Bora, learned counsel for the respondent nos.4 & 5 submit that the present case is a covered case in terms of the judgment and order passed in WP(C) 4085/2024 and WP(C) 5049/2024. They submit that the petitioner is not required to pay any Forest Royalty when the petitioner is constructing her own building on her own land.

7. Paragraph 19 of the judgment and order dated 24.09.2024 passed in WP(C) 4085/2024 is reproduced herein below:-

“19. In view of the above analysis, it is therefore the opinion of this Court that the impugned communication dated 02.03.2023 issued by the Joint Secretary to the Government of Assam, Mines and Mineral Department thereby stipulating that the amendments carried out by the Amending Rules would also apply to the private agencies is contrary to the Act of 1957 as well as the Rules of 2013 as amended by the Amending Rules. Accordingly, the impugned communication dated 02.03.2023 is set aside and quashed.”

8. In view of the fact that this case is a covered case and as the impugned

communication dated 02.03.2023 issued by the Joint Secretary to the Government of Assam, Mines and Minerals Department has been set aside, the prayer of the petitioner is allowed. The respondents are accordingly directed not to demand payment of deposit of 2% Forest Royalty from the petitioner.

9. The writ petition is disposed of accordingly.

JUDGE

Comparing Assistant