

GAHC010279262023



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

Case No. : WP(C)/7215/2023

AMBU CHOUDHURY AND ANR
SON OF LATE JAGADINDRA CHOUDHURY,
R/O- LAKHIPUR TOWN,
P.O. AND P.S.- LAKHIPUR,
DIST.- GOALPARA, ASSAM,
PIN- 783129.

2: RABINDRA CHOUDHURY
SON OF LATE JAGADINDRA CHOUDHURY

R/O- LAKHIPUR TOWN

P.O. AND P.S.- LAKHIPUR

DIST.- GOALPARA
ASSAM

PIN- 783129

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
REVENUE DEPARTMENT,
GOVERNMENT OF ASSAM, DISPUR, GUWAHATI-6.

2: THE DEPUTY COMMISSIONER
GOALPARA
P.O. AND DISTRICT- GOALPARA
ASSAM

PIN- 783101.

3: THE SETTLEMENT OFFICER

GOALPARA
P.O. AND DISTRICT- GOALPARA
ASSAM

PIN- 783101.

4:THE CIRCLE OFFICER
MATIA REVENUE CIRCLE
P.O.- MATIA
DISTRICT- GOALPARA

ASSAM
PIN- 783125

Advocate for the petitioner(s): Mr. MM Zaman

Advocate for the respondent(s): Mr. N Goswami

Junior Government Advocate, Assam

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

18.09.2024

Heard Mr. MM Zaman, the learned counsel appearing on behalf of the petitioners. Mr. N Goswami, the learned Junior Government Advocate, Assam appears on behalf of the District Administration and Mr. A Bhattacharya, the learned Standing Counsel, appears on behalf of the Revenue Department, Govt. of Assam.

2. This Court vide the order dated 10.09.2024 sought for certain instruction(s) from the respondent Nos.2, 3 and 4 as to what steps have been taken by the

respondent No.4 in respect to the disposal of Misc.Case No.127/2022. Paragraphs 2 to 5 of the said order being relevant are reproduced hereinunder:

"2. The Petitioners herein have approached this Court being aggrieved by the inaction on the part of the Respondent No.4 in disposing of the representation so submitted for cancellation of the mutation in favour of one Shri Bibhu Bhusan Choudhury which was filed in the year 2018.

3. From the materials on record, it transpires that the Petitioners herein claim that Late Jagadindra Choudhury and Jyotindra Choudhury were the original owners and possessor of two plots of land. One of such plot is a plot admeasuring 3 Bighas 2 Kathas 16 Lechas covered by Dag No.516 of Patta No.152 (new)/69 (old) and the other plot admeasures 7 Bighas 2 Kathas 14 Lechas covered by Dag No.517 of Patta No.152 (new)/117(old) at village Lalabari under Matia Revenue Circle in the District of Goalpara, Assam.

4. It is the case of the Petitioners that neither their predecessor-in-interest nor they have sold their land. However, in the year 2015, they could come to learn that the two plots of land have been mutated in favour of one Shri Bibhu Bhusan Choudhury. Under such circumstances, the Petitioners submitted an application on 29.11.2018 before the Settlement Officer, Goalpara whereby the Petitioners inter alia prayed for cancellation of the illegal mutation of their land in favour of Shri Bibhu Bhusan Choudhury and the name of the petitioners be restored. Upon such application being filed, the Settlement Officer forwarded the application to the Circle Officer of Matia Revenue Circle and on the basis thereof, a Misc. Case being Misc. Case No.127/2022 was registered and notice was issued on 29.10.2022 directing the parties to appear before the said authorities.

However, there was no steps taken thereupon by the Circle Officer, Matia Revenue Circle and it is under such circumstances, the Petitioners have approached this Court by filing the instant writ petition.

5. This Court fixes this matter again on 18.09.2024 on which date, Ms. M. Barman, the learned Government Advocate for the Respondent Nos. 2, 3 and 4 shall apprise this Court as to what steps have been taken by the Respondent No.4 in respect to the disposal of the Misc. Case No.127/2022."

3. This Court had duly heard the learned counsels appearing on behalf of the petitioners as well as the respondents.

4. It is seen that the petitioners herein had filed an application challenging an order of mutation granted by the Assistant Settlement Officer passed on 24.09.1991 on 29.11.2018. It is seen that pursuant thereto, the Settlement Officer endorsed the file to the Circle Officer and on the basis of which, the Circle Officer had registered Misc.Case No.127/2022.

5. Mr. N Goswami, the learned Junior Government Advocate, Assam appearing on behalf of the respondent Nos.2, 3 and 4 submitted that taking into account that the order has been passed by the Assistant Settlement Officer, the Circle Officer would not have the power to review and as such, no order has been passed in Misc. Case No.127/2022.

6. This Court is of the opinion that the Circle Officer, Matia Revenue Circle had committed no illegality in not passing any order in Misc.Case No.127/2022, taking into account that the Circle Officer does not have the power to set aside an order of mutation passed by the Assistant Settlement Officer. This is more so, taking into account the provisions of Section 147 of the *Assam Land and Revenue Regulations, 1886* which stipulates that an appeal lies to the

Settlement Officer against an order passed by the Assistant Settlement Officer.

7. Accordingly, this Court, therefore, is not inclined to issue any writ in the nature of mandamus as sought for.

8. Be that as it may, the petitioner would always be at liberty to file a revision application under Section 151 of the Assam Land and Revenue Regulations, 1886 challenging the order dated 24.09.1991 passed by the Assistant Settlement Officer.

9. In terms of the above, the writ petition stands disposed of.

JUDGE

Comparing Assistant