

GAHC010281662023



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

Case No. : I.A.(Civil)/3754/2023

NILABZA BHUYAN
S/O. LT. MAKHAN BHUYAN, R/O. CLUB ROAD, DIST. JORHAT-785001,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPTT., DISPUR, GUWAHATI-
781019, ASSAM.

2:THE SECRETARY TO THE GOVT. OF ASSAM

REVENUE (L.R.) DM DEPTT.
DISPUR
GUWAHATI-781006
ASSAM.

3:THE DY. COMMISSIONER

JORHAT
OFFICE OF THE DY. COMMISSIONER
JORHAT
ASSAM.

4:THE ADDL. DEPUTY COMMISSIONER

JORHAT
OFFICE OF THE DEPUTY COMMISSIONER
JORHAT
ASSAM.

5:THE CIRCLE OFFICER

JORHAT EAST REVENUE CIRCLE
JORHAT
ASSAM

Advocate for the Petitioner : MR G N SAHEWALLA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 27.06.2024

Heard Mr. G. N. Sahewalla, learned Senior Counsel assisted by Ms. K. Bhattacharyya, learned counsel for the applicant. Also heard Mr. N. Goswami, learned Government Advocate for the State respondents and Ms. N. Bordoloi, learned Standing Counsel for Revenue and Disaster Management Department.

By filing this Interlocutory Application in WP(C) No. 1347/2022, the applicant is seeking interim directions to the effect of restraining the opposite parties from carrying out construction works in the land measuring 3 Kathas- 10 Lechas falling under Government Dag No. 360 situated at Mouza- Garmur, Vill- Tocklai Tea Estate, under Jorhat East Revenue Circle, Jorhat in the District of Jorhat.

The grievance of the applicant is non finalization of the proposal of settlement of 3 Kathas- 10 Lechas of Government Khas land under Dag No. 360 of Mouza- Garmur, Tocklai Tea Estate in favour of the applicant.

Heard the parties and perused the materials available on record.

It appears that on 09.06.2014, the jurisdictional Circle Officer proposed before the office of the Deputy Commissioner, Jorhat, for settlement of the subject land, falling under Dag No. 360 in favour of the applicant.

Thereafter on 08.05.2015, Jorhat Sub-Divisional Land Advisory Committee approved the aforesaid proposal in favour the applicant which appears at serial no. 179 of the minutes of the meeting dated 08.05.2015.

It further appears that the office of Additional Deputy Commissioner (Revenue), Jorhat by letter dated 28.07.2015 submitted before the jurisdictional Circle Officer, the zonal valuation certificate of land for settlement in favour of the applicant.

Pursuant to the same, the jurisdictional Circle Officer by letter dated 04.12.2015 fixed total valuation for the subject land at Rs. 3,50,000/-.

Thereafter, the office of the Deputy Commissioner, Jorhat by letter dated 23.05.2016 submitted proposal before the office of the Commissioner & Secretary to the Government of Assam, Revenue & Disaster Management Department in favour of the applicant.

However, the office of the Revenue & Disaster Management Department returned the aforesaid proposal to the office of the jurisdictional Deputy Commissioner with a remark that it is the Deputy

Commissioner of the District as per the relevant land policy competent for allotment/settlement of land to the indigenous landless persons in the rural areas and accordingly directed the jurisdictional District Commissioner to take necessary action for settlement/allotment of land in favour of the applicant.

However, pending finalization of the said settlement in favour of the applicant, since some encroachment have been made in the subject land and some constructions have been started, the instant Interlocutory Application has been filed.

In the instant Interlocutory Application, respondent No. 3 to 5 has filed an additional affidavit on 18.04.2024, wherein they have enclosed a report of the Circle Officer dated 31.08.2020, wherein it is stated that applicant is not in possession over the subject land falling under Dag No. 360 of Tocklai Chah Bagicha Gaon.

Since the controversy is now as regards the possession of the applicant over the subject land falling under Dag No. 360, wherein, this Court finds that there are two reports of the jurisdictional Circle Officer, one in favour of the applicant and other against the applicant, this court is of the considered view that the present Interlocutory Application can be disposed of by directing that an enquiry be caused by the office of jurisdictional Additional Deputy Commissioner (Revenue) Jorhat (Respondent No. 4) as regards the possession of the applicant over the subject land falling under Dag No. 360 of Tocklai Chah Bagicha Gaon and until and unless the enquiry is completed, no construction activities shall be carried out in Dag No. 360 in the land

measuring 3 kathas- 10 Lechas falling under Government Dag No. 360 situated at Mouza- Garmur, Tocklai Tea Estate under Jorhat, East Revenue Circle.

Ordered accordingly.

Needless to clarify that the exercise as indicated above shall be completed within a period of 2(two) months from the date of the receipt of the certified copy of the Court's order.

With the above observation, this Interlocutory Application stands disposed of.

JUDGE

Comparing Assistant