

GAHC010289882023



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

Case No. : WP(C)/7549/2023

PRASANTA KUMAR BARMAN
S/O- LATE PROMOD CHANDRA BARMAN,
R/O- HOUSE NO-25, A.K AZAD ROAD, REHABARI, GUWAHATI-08, DIST-
KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE COMMISSIONER AND SECRETARY, GOVT. OF ASSAM,
MUNICIPAL ADMINISTRATION DEPARTMENT, DISPUR, GUWAHATI-06

2:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
BHANGAGARH
GUWAHATI-0

Advocate for the Petitioner : MR S MUKTAR

Advocate for the Respondent : SC, GMC

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 19-01-2024

Heard Mr. S. Muktar, learned counsel for the petitioner; Mr. H. Sharma,
learned Additional Senior Government Advocate, Assam for the respondent no.

1; and Mr. S. Borah, learned Standing Counsel, GMC for the respondent no. 2.

2. The petitioner has asserted that he entered into a rental agreement on 31.12.1996 with his paternal uncle, Jyotish Chandra Barman for letting out one single storied RCC building measuring around 700 sq.ft. [‘the rental premises’, for short] on monthly rental basis for the chamber of the petitioner, who is a practicing lawyer. The rental premises had electricity connection and also had a regular water supply connection provided by the respondent GMC. The petitioner has further asserted that he has been using the said rental premises, having GMC holding no. 104 [House no. 26A], as his office chamber till date. The petitioner has further stated that the said rental premises is standing on a plot of land, covered by Dag no. 129 & K.P. Patta no. 7, situate at Sahar – Ulubari Part I, Mouza – Ulubari, A.K. Azad Road, Rehabari, Guwahati. The petitioner has further claimed that by executing a will on 30.12.1997, his uncle Jyotish Chandra Barman, as the owner of the property, had executed a will in respect of his properties which included the rental premises as well. When from 2009 onwards Jyotish Chandra Barman who was a bachelor, started suffering from illness, it was the petitioner who looked after him. On 13.05.2015, the petitioner’s uncle, Jyotish Chandra Barman had expired. Subsequent to death of the petitioner’s uncle, that is, the owner of the rental premises, disputes started arising between the family members of the deceased but till date, the petitioner is in occupation of the rental premises. Probate proceedings including one probate proceedings at the instant of the petitioner, are pending before the Court and till date, the title in respect of the rental premise is standing in the name of Late Jyotish Chandra Barman.

3. The petitioner has alleged that in the year 2022, all of a sudden, the water

supply connection to the rental premises stood disconnected. A number of representations were filed by the petitioner before the respondent GMC authorities with the request to allow the petitioner to pay the property tax in respect of the rental premises, only for the purpose of restoration of the water supply connection to the rental premises.

4. Mr. Borah, learned Standing Counsel, GMC was asked to obtain instruction as regards the reason behind disconnection of the water supply connection to the said rental premises. Mr. Borah has submitted on 05.01.2024 that a technical team of the GMC would make an inspection of the concerned rental premises to find out the reason for non-supply of water to the said rental premises. Today, Mr. Borah has submitted that a number of development works are being undertaken by other departmental authorities like PWD, etc. in the vicinity of the rental premises. Further, works are also being undertaken for different agencies for supply of gases to the households in the vicinity. He has submitted that disconnection of the water supply to the rental premises is not attributable to the GMC authorities.

5. From the projections made, it appears that the petitioner, a nephew of the owner [since deceased] of the rental premises, has a claim *prima facie* in respect of occupation of the rental premises on the strength of the rental agreement. It is not the case of the respondents that the petitioner is in unauthorized occupation of the said rental premises. Though the matter of title and ownership of the rental premises can be subject-matter of disputes, but from the assertion made by the petitioner, it appears that he is in continuous occupation of the said rental premises pursuant to the rental agreement executed by him with the owner [since deceased] on 31.12.1996.

6. The Hon'ble Supreme Court of India in Criminal Appeal no. 810/2022 [Dilip (Dead) through Lrs. vs. Satish and others] decided on 13.05.2022, has observed in respect of electricity connection that electricity is a basic amenity of which a person cannot be deprived of. It has been further observed that electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. It has been emphasized that all that the electricity supply authorities are required to examine as to whether the applicant for electricity connection is in occupation of the premises in question. By the same analogy, the supply of water to a household is to be as a basic amenity from which a household should not be deprived of unless such disconnection is made due to default on the part of such household. As the petitioner has claimed to enter in occupation of the said rental premises pursuant to execution of a rental agreement on 31.12.1996 with the owner [since deceased] of the rental premises and has further claimed that he is in continuous occupation of the said rental premises till date, the Court is of the considered view that the water supply connection to the said rental premises which is stated to be in disconnected position, should be restored immediately. The respondent GMC authorities shall ascertain as to whether any dues are pending in respect of the concerned water supply connection to the rental premises and if any such dues are pending, the same shall be intimated to the petitioner for payment within a period of 2 [two] weeks from the date of receipt of a certified copy of this Order. If such intimation is provided to the petitioner, the petitioner shall deposit the dues within a period of 1 [one] week therefrom to the respondent GMC authorities and on such deposit, the respondent GMC authorities shall restore the water supply connection to the said rental premises within a period of 1 [one] week thereafter, notwithstanding the development works undertaken by

the other departmental authorities in the vicinity of the rental premises.

7. It is further observed that payment of any outstanding dues for the sole purpose of restoration of the water supply connection in respect of the rental premises shall not accrue any right to the petitioner to claim any kind of right, title or ownership in respect of the rental premises at any time.

8. This order disposes of the writ petition.

JUDGE

Comparing Assistant