GAHC010240842022

2026:GAU-AS:13488

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

Case No. : WP(C)/7598/2022

JAYDEV DASGUPTA
S/O. LT. BADAL DASGUPTA, R/O. RAILWAY COLONY DIPHU, KARBI ANGLONG, PIN-782460, P.O. AND P.S. DIPHU.

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE GENERAL MANAGER, N.F. RAILWAY, P.O. MALIGAON, HEADQUARTERS, PIN-781011, GUWAHATI, ASSAM.

2:THE DIVISIONAL MANAGER (ADMINISTRATION)

N.R. RAILWAY
LUMDING
P.O. LUMDING
PIN-782447
ASSAM.

3:THE DEPUTY RAILWAY MANAGER LUMDING

N.F. RAILWAY
PIN-782447
KARBI ANGLONG
ASSAM.

4:THE ESTATE OFFICER

N.F. RAILWAY
LUMDING
PIN-782447
ASSAM.

5:THE KARBI ANGLONG AUTONOMOUS COUNCIL

REP. BY PRINCIPAL SECRETARY
DIPHU
KARBI ANGLONG
PIN-782460.

6:THE DEPUTY COMMISSIONER

DIPHU
KARBI ANGLONG
PIN-782460.

7:THE REVENUE OFFICER

KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU CIRCLE
KARBI ANGLONG
ASSAM

Advocate for the Petitioner : MR B P BORAH, MR R S RONGHANG,MR P J DUTTA

Advocate for the Respondent : SC, RAILWAY, GA, ASSAM,SC, K A A C

BEFORE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

14-09-2026

1. Heard Mr. B. P. Borah, learned counsel for the petitioner, and Ms. S. Kemprai, learned Standing counsel, KAAC, for the respondent Nos. 5 & 7. Also heard Ms. M. Bhattacharya, learned Additional Senior Government Advocate, Assam, for the respondent No. 6.

2. The petitioner, a co-pattader of a plot of land, measuring 12 Lechas, covered

under Dag No. 4306/261, Patta No. 260 of Village-Diphu Town under Mouza-Jamunapur, Diphu in the district of Karbi Anglong, apprehending eviction at the lands of the railway authorities in exercise of its power under Section 5 of the Public Premises (Eviction of Un-authorised Occupants) Act, 1971(the Act, 1971, in short) has approached this Court.

3. This Court, under its order dated 25.11.2022, taking a prima facie view that the railway authorities have no jurisdiction to exercise their power over a pattaland, stayed the impugned communication dated 16.11.2022, issued by the Estate Officer, N.F. Railway, Lumding, and addressed to the Deputy Commissioner, requesting necessary action for the maintenance of law and order during the eviction drive near Diphu Railway Station.

4. Perused the impugned Notice dated 16.11.2022 (supra). It is discernible that the same is not a notice issued under any provision of the Act, 1971, but a communication issued by the Estate Officer, N.F. Railway, Lumding, intimating the Deputy Commissioner, Diphu, Karbi Anglong, that there are many unauthorized encroachments in the Diphu Railway Station area, which are hindering various development projects.

According to the said notice, a joint verification of the Railway land boundary by Railway officials along with KAAC officials was completed, and the encroachment within the Railway premises was identified, and all the proceedings were completed as per the Act, 1971.

Accordingly, it was intimated that the removal of such encroachment was scheduled from 22.11.2022 onwards, and a request was made to the District/Deputy Commissioner to make the necessary arrangements and maintain law & order in the said area.

5. It is the case of the petitioner that he has not received any notice under the

provisions of the Act of 1971.

6. Be that as it may, this Court is of the view that a patta land cannot be a subject matter of exercise of power under the Act, 1971. It is also discernible from the record that though the impugned notice dated 16.11.2022 refers to certain joint verifications of railway land boundary, however, the said notice neither discloses the verified land nor reflects the land of the petitioner.

7. In view of the aforesaid, this Court is of the opinion that the apprehension of the petitioner has no basis, inasmuch as, according to the petitioner, his construction is over a patta land, though it is near Diphu Railway Station.

8. Accordingly, the present writ petition stands disposed of with directions that if the petitioner's hotel is situated on patta land, the same may not be the subject matter of any eviction at the hands of the Railways. However, if the petitioner has encroached on Railway land beyond his patta land, the Railways shall be justified in proceeding against the petitioner under the Provisions of the Act, 1971, after following the due procedure prescribed under the said Act'1971. Needless to say, in the event the petitioner is aggrieved by any further action, he shall be at liberty to approach the appropriate forum for redressal of his grievance.

9. Accordingly, without interfering with the impugned communication, the writ petition stands disposed of with the observations recorded hereinabove. The interim order, if any, stands vacated.

JUDGE

Comparing Assistant