

WP(C) 393/2016
BEFORE
THE HON'BLE MR JUSTICE HRISHIKESH ROY

The petitioner is a company which is owning the Gopal Krishna Tea Estate (T.E) encompassing 425 hectares tea growing land in the Morigaon district. The land measuring 93 Bighas 2 Kathas 3 Lechas, covered by Dag Nos.168, 161, 158, 190, 186 and 264 under the N.L.R. Grant No.102/36 were shown to be Government land, through the Settlement Order No. 6309/70. But the Tea Company was unaware of the said order.

Mr. G.N. Sahewalla, the learned Senior Counsel refers to the communication dated 25.6.1991 (Annexure-III), dated 8.5.1992 (Annexure-IV) and 19.1.1994 (Annexure-V) to project that the concerned Order No.6309/70 is not traceable in the Revenue Department and there is no explanation as to how the said T.E. land, is converted into the category of Government land.

The Mayong Revenue Circle Officer had issued a notice on 15.12.2015 (Annexure-VII) to the Manager of the T.E., whereby demarcation is proposed of lands under the aforesaid dag numbers and additionally 10 Bighas 5 Lechas land, covered by Dag No.187 (Total 103 Bighas 2 Kathas 13 Lechas).

Mr. G.N. Sahewalla, the learned Senior Counsel submits that the Government has decided to allot Government land to the landless labourers and the petitioners do not oppose such laudable objective of the Government. But in respect of the tea growing land, the Senior Counsel submits that proper justification must be available for conversion of tea land to Sarkari category under Order No. 6309/70.

The petitioners refer to the letter dated 29.12.2015 (Annexure-IX) Addressed to the Deputy Commissioner to project that in the event, the T.E. is found to be cultivating Government land, the petitioners are prepared to give up vacant T.E. land of equal measure at the periphery of the T.E., for rehabilitation of the landless workers.

Mr. Sahewalla submits that demarcation exercise may not be immediately implemented as giving up of the T.E. land will disturb the contiguity of the tea growing area of the Gopal Krishna T.E.

In view of above, let Notice returnable in 4 weeks be issued. Mr. B.J. Ghosh, the learned Government Advocate accepts notice for all the 6 respondents. Necessary extra copies be furnished to him.

In the interim, the demarcation proposed in the Encroachment Case No. 6/2014/19 through the notice dated 15.12.2015 (Annexure-VII) may be carried out. But the petitioners should not be dispossessed from any tea growing land without first considering their offer for giving up equal measure of vacant T.E. land, for the proposed move of the Government.