

WP(C) 2024/2016

BEFORE

HON'BLE MR. JUSTICE HRISHIKESH ROY

The petitioner is occupying his inherited ancestral house in the vicinity of the Devidol in Joysagar locality of Sivasagar District. As the Devidol is declared to be a protected monument, under the Ancient Monuments and Archeological Sites and Remains Act, 1958 (in short 'the 1958 Act' ), all constructions/structures within 100 meters vicinity of the protected monument, is prohibited under Section 20A of the 1958 Act.

Considering the petitioner's occupied house to be within the prohibited zone, a show cause notice was issued on 27.4.2011 (Annexure-3) by the Superintending Archeologist and in pursuant to the said notice, the impugned order has been issued on 10.11.2015 (Annexure-5), whereby the occupier is directed to remove their unauthorized construction/building, from the vicinity of the protected monument.

Mr. M. Choudhury, learned counsel submits that after the show cause notice was served upon the petitioner in the year 2011, the house owner visited the office of the Superintending Archeologist at Guwahati and orally represented that his property is beyond the 100 meters of the protected monument. But notwithstanding the above protection, the impugned order has now been issued, which will result in loss of the inherited dwelling house, of the petitioner.

Since the protection of ancient monument is warranted through the 1958 Act, construction in the protected zone is prohibited. Therefore let notice returnable in 4 weeks be issued. The notice on the respondent Nos.1-4 be served through Mr. S C Keyal, the learned Asstt. Solicitor General of India. The Govt. Advocate Mr. J . Handique, accepts notice for D.C., Sivasagar (respondent No.5). Necessary extra copies be furnished to both the lawyers.

As the petitioner has claimed that the present house was constructed in 1986-87 and he has not made any further construction/repairing of the old house, the status quo in respect of the family residence should be maintained by all parties. However the respondents are at liberty to apply for modification of this order.