

GAHC010015552008



2026:GAU-AS:4930

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

Case No. : WP(C)/5541/2008

SRI BIRAJ SUTRADHAR
S/O LT. PRABHAT CHANDRA SUTRADHAR, VILL- JYOTI UNDER BARPETA
MOUZA, DIST. BARPETA, ASSAM.

VERSUS

ON THE DEATH OF KULAJIT DAS, HIS LEGAL HEIRS SMT. DIPANNITA DAS
AND 2 ORS. REP.
S/O. BIDUR DAS, R/O. JANIA, BARPETA, ASSAM.

1:(a) SMTI. DIPANNITA DAS
W/O. LATE KULAJIT DAS
R/O. 2ND FLOOR
SHAILAJA APARTMENT
NARIKAL BASTI
ZOO-NARENGI ROAD
GUWAHATI-781024
DIST. KAMRUP (METRO)
ASSAM.

1:(b) MISS MINARVA DAS
D/O. LATE KULAJIT DAS
BEING MINOR REPRESENTED BY HER MOTHER SMT. DIPANNITA DAS
R/O. 2ND FLOOR
SHAILAJA APARTMENT
NARIKAL BASTI
ZOO-NARENGI ROAD
GUWAHATI-781024
DIST. KAMRUP (METRO)
ASSAM.

1:(c) MISS HIYARVA DAS

D/O. LATE KULAJIT DAS
BEING MINOR REPRESENTED BY HER MOTHER SMT. DIPANNITA DAS
R/O. 2ND FLOOR
SHAILAJA APARTMENT
NARIKAL BASTI
ZOO-NARENGI ROAD
GUWAHATI-781024
DIST. KAMRUP (METRO)
ASSAM.

2:SRI BISWAJIT DAS

3:SRI SUJIT DAS

4:SRI HANSAJIT DAS
SL. NO.S 1 TO 4 ARE ALL ARE SONS OF BIDUR DAS R/O JANIA
BARPETA
ASSAM.

5:ON THE DEATH OFSRI BAMDEV MAZAUMDAR

HIS LEGAL HAIRS

5.1:MIRA MAJUMDAR
RESIDENT OF GOLAIHATI
KAKOTYHATI
DISTRICT - BARPETA
ASSAM

5.2:DULUMONI MAZUMDAR
RESIDENT OF GOLAIHATI
KAKOTYHATI
DISTRICT - BARPETA
ASSAM

5.3:TULTUL MAJUMDAR
DAUGHTER OF LATE BAMDEV MAJUMDAR
R/O GOLAIHATI
KAKOTYHATI
DISTRICT - BARPETA
ASSAM

5.4:SANGEETA MAJUMDAR

DAUGHTER OF LATE BAMDEV MAJUMDAR
R/O GOLAIHATI
KAKOTYHATI
DISTRICT - BARPETA
ASSAM

5.5:NABJYOTI DAS
S/O LATE BAMDEV MAJUMDAR
R/O GOLAIHATI
KAKOTYHATI
DISTRICT - BARPETA
ASSAM

6:DEPUTY COMMISSIONER
BARPETA

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

For the Petitioner(s) : Mr. R. Dubey, Advocate

For the Respondent(s) : Mr. H. Sarma, Addl. Sr. Govt. Advocate
Mr. R. Borpujari, Standing Counsel
Mr. A. Das, Advocate
Mr. S. Khound, Advocate

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **02.04.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. R. Dubey, the learned counsel appearing on behalf of

the petitioner. Mr. H. Sarma, the learned Additional Senior Government Advocate appears on behalf of the respondent No. 6 and Mr. A. Das, the learned counsel appears on behalf of some of the private respondents.

2. This Court, taking into account the submissions of the learned counsel appearing on behalf of the petitioner also sought the assistance of Mr. R. Borpujari, the learned Standing Counsel for the Revenue and Disaster Management Department, Government of Assam.

3. The present writ petition has been filed by the petitioner challenging the judgment and order dated 28.11.2008 passed in Case No. 116 RA(B)/07, whereby the said Revenue Appeal was dismissed by the learned Assam Board of Revenue.

BRIEF FACTS OF THE CASE

4. The brief facts as it emerges from the materials on record are that the Government had granted Annual Pattas to (1).Chida Kalita, (2).Krishna Kalita, (3). Dhana Kalita and (4).Bhagaban Mistri in respect of various plots of land covered by Dag Nos. 147, 148, 151, 153, 175, 197, 201, 206 and 221 of Village Jati, Barpeta, for cultivation purposes. The predecessor-in-interest of the petitioner,

namely, Sri Prabhat Chandra Das (since deceased), had taken over the said lands from the original pattadars and used the same for cultivation purposes.

5. On 05.11.2004, a report was submitted to the Circle Officer, Barpeta Revenue Circle by the concerned Lot Mandal stating that the Annual Patta land admeasuring 18 Bighas 2 Kathas under Dag No. 221 was in the possession of Sri Bamdev Mazumdar, Sri Helen Talukdar, Sri Kamal Bharali, Sri Munin Sarma, Sri Amar Gayan, Sri Thunu Gayan, Sri Tiken Gayan, Sri Mukut Pathak, and Sri Nikunjo Pathak. It was further mentioned that no person was in possession of the Annual Patta land under Dag No. 197. In respect to the Annual Patta land under Dag No. 203 which admeasures 7 Bighas 2 Kathas 10 Lechas, no person was found in possession. It was, therefore, reported that the conditions of the Annual Patta land were violated and that appropriate steps be taken for initiation of a Non-Renewal Case. On the basis thereof, a Non-Renewal Case, being NR Case No. 3/06-07 was initiated by issuance of notice to the original pattadars in respect to the Annual Patta land measuring 18 Bighas 2 Kathas under Dag No. 221 and 7 Bighas 2 Kathas 10 Lechas under Dag No. 203. It is relevant to take note of that though the predecessor-in-interest of the petitioner was not issued any Annual Patta, his name was also mentioned in the said

notice.

6. The Additional Deputy Commissioner, Barpeta vide order dated 24.05.2007 opined that the Annual Pattadars of land admeasuring 18 Bighas 2 Kathas 0 Lecha under Dag No. 221 and 7 Bighas 2 Kathas 10 Lechas under Dag No. 203 of Village Jati under Mouza Barpeta had violated the conditions of the Annual Pattas by transferring possession. Accordingly, the Annual Pattas pertaining to Dag Nos. 203 and 221 were cancelled, and the land was reverted back to the Government as Sarkari land. The said order was challenged by the original petitioner in the present proceedings by filing an Appeal before the learned Assam Board of Revenue, which was registered as Case No. 116 RA(B)/07. The learned Assam Board of Revenue vide the judgment and order dated 28.11.2008 upheld the order dated 24.05.2007 passed by the Additional Deputy Commissioner, Barpeta. It is under such circumstances, the present writ petition has been filed.

SUBMISSIONS MADE BY THE LEARNED COUNSELS FOR THE PARTIES

7. Mr. R. Dubey, the learned counsel appearing on behalf of the petitioner submitted that though no Annual Patta was issued in

favour of the predecessor-in-interest of the petitioner, his name was duly recorded in the Record of Rights, and he had been regularly paying land revenue. The learned counsel, therefore, submitted that since the name of the petitioner's predecessor-in-interest was entered in the Record of Rights, the notice for Non-Renewal ought to have been issued to the predecessor-in-interest of the petitioner. However, no such notice was served, and this aspect of the matter was not taken into consideration either by the Additional Deputy Commissioner, Barpeta, or by the learned Assam Board of Revenue. The learned counsel submitted that on this ground, the order dated 24.05.2007 passed by the Additional Deputy Commissioner, Barpeta, as well as the judgment and order dated 28.11.2008 passed by the learned Assam Board of Revenue are required to be interfered with. The learned counsel for the petitioner further submitted that even assuming for argument sake without admitting, that the predecessor-in-interest had no right over the land qua the Government, but then also in view of the Assam Land Policy, 2019, and more particularly, Clause 11.2 thereof, it is the policy of the State Government to recognize such transfers made by the original pattadar. The learned counsel therefore, submitted that since the challenge to the impugned order dated 24.05.2007 is subsisting by way of the present proceedings, the petitioner would be entitled to the benefit of

Clause 11.2 of the Assam Land Policy, 2019.

8. Mr. H. Sarma, the learned Additional Senior Government Advocate appearing on behalf of the respondent No. 6 submitted that a perusal of Rule 1(2)(c) of the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886 (for short, "the Regulation"), makes it clear that there cannot be any transfer by Annual Pattadars in favour of any person. The learned Additional Senior Government Advocate further submitted that even if there is any transfer by the Annual Pattadar to any person during the subsistence of the Annual Patta, the same may be enforceable qua the Annual Pattadar with the transferee, but the same would not be binding on the Government. The learned Additional Senior Government Advocate, therefore, submitted that neither the petitioner nor his predecessor-in-interest has any *locus standi* to challenge the order dated 24.05.2007 or to approach the learned Assam Board of Revenue or this Court. The learned Additional Senior Government Advocate further submitted that non-renewal notices were issued and the Additional Deputy Commissioner, Barpeta, having found that the Annual Pattadars had transferred the possession over the land which violated the conditions of the Annual Pattas, the Additional Deputy Commissioner, Barpeta vide the order dated 24.05.2007 had

committed no error in cancelling the Annual Patta. The learned Additional Senior Government Advocate further submitted that the learned Assam Board of Revenue vide the judgment and order dated 28.11.2008 had committed no error in confirming the order dated 24.05.2007.

9. In addition to that, the learned Additional Senior Government Advocate appearing on behalf of the respondent No. 6 submitted that this Court is exercising the jurisdiction of issuance of a writ of certiorari. Under such circumstances, unless a case of gross perversity is not being made out, interference with the judgment and order dated 28.11.2008 passed by the learned Assam Board of Revenue, is not called for. In that regard, the learned Additional Senior Government Advocate referred to the judgment of the Supreme Court in the case of ***Central Council for Research in Ayurvedic Sciences and Another Vs. Bikartan Das and Others*** reported in ***(2023) SCC Online SC 996***.

10. Taking into account the submissions made by the learned counsel appearing on behalf of the petitioner regarding the implication of Clause 11.2 of the Assam Land Policy, 2019, this Court sought the assistance of Mr. R. Borpujari, the learned Standing Counsel for the Revenue and Disaster Management

Department, as to whether the petitioner would be entitled to any benefit taking into account that the State vide Clause 11.2 of the Assam Land Policy, 2019 categorically takes a policy decision to recognize the rights of the transferees of Annual Patta.

11. Mr. R. Borpujari, the learned Standing Counsel submitted that a perusal of Clause 11.2 of the Assam Land Policy, 2019 would show that the Government as a policy, would be recognizing the rights of the transferee of an Annual Patta, which is otherwise contrary to Rule 1(2)(c) of the Settlement Rules and as such, the Government in very Clause had stated that an effective mechanism has to be worked out. The learned Standing Counsel therefore submitted that unless and until the said effective mechanism is not worked out, the petitioner would have no right to claim any benefit in terms with Clause 11.2 of the Assam Land Policy, 2019.

12. This Court has heard the learned counsel for the parties and perused the materials on record.

ANALYSIS AND DETERMINATION

13. From a perusal of the records including those pertaining to NR Case No. 3/2006–07, it would show that based on a report submitted by the Circle Officer in respect to land admeasuring 18

Bighas 2 Kathas under Dag No. 221 and 7 Bighas 2 Kathas 10 Lechas under Dag No. 203, the Additional Deputy Commissioner, Barpeta vide order dated 14.11.2006 directed issuance of notice in the said proceedings. The Opposite parties therein were duly present and vide an order dated 24.05.2007, the Additional Deputy Commissioner, Barpeta found that there was a transfer made by the Annual Patta holders of their possession, and it is under such circumstances the Annual Patta in respect to Dag No. 203 and Dag No. 221 of Village Jati under Barpeta Mouza was cancelled and the land was reverted back to the State.

14. At this stage, this Court finds it relevant to take note of Rule 1(2)(c) of the Settlement Rules which defines the term "Annual Lease". The said Clause of Rule 1(2) being relevant is reproduced herein under:

“(c) “An Annual Lease” means a lease granted for one year only and confers no right in the soil beyond a right of user for the year for which it is given. It confers no right of transfer or of sub-letting even during the year of issue:

Provided that the State Government may waive their right to cancel an annual lease and may allow its renewal automatically till such time as the State Government may direct in those cases in which the land is mortgaged to Government or to a State-sponsored Co-operative Society;”

15. From a perusal of the above quoted Rule, it would show that an Annual Patta confers no right of inheritance beyond the year of issue. Further to that, it confers no right of transfer or of sub-letting, and shall be liable to cancellation for any transfer or sub-letting even during the year of issue.

16. It is a settled principle of law, as has been held by this Court in the case of ***Molan Saikia Vs. State of Assam*** reported in ***AIR 1951 Assam 91***, that an Annual Patta upon being issued to a person, unless no non-renewal notice in accordance with Clause 3 of the form of annual lease is given by either party, the Annual Patta must be issued for the ensuing year. It was further observed by this Court that the fact that no fresh grant of Annual Patta had been made to the patta holder is immaterial.

17. It is also no longer *res integra* that if there is a transfer made by the Annual Pattadar to any other person, the said person to whom the transfer has been affected by the Annual Pattadar would have a right qua the Annual Pattadar. However, this right so created upon the person cannot be enforced against the Government.

18. In the instant case, it is seen that the Annual Pattadars, were

(1).Chida Kalita, (2).Krishna Kalita, (3). Dhana Kalita and (4).Bhagaban Mistri in respect to the various plots of land, including Dag Nos. 203 and 221. The transfers so made to the predecessor-in-interest of the petitioner by the Annual Pattadars would be valid qua the Annual Pattadars. However, such transfer would not bind the State.

19. The learned counsel appearing on behalf of the petitioner though submitted that the name of the petitioner's predecessor-in-interest was mutated in the Record of Rights, but taking into account that the settled principles of law that mutation neither confers any right nor extinguishes any right, mere insertion of the name of the predecessor-in-interest of the petitioner in the Record of Rights, would not confer a right upon the predecessor-in-interest of the petitioner, or the petitioner over the lands contained in Dag Nos. 203 and 221 as against the State. It being an admitted fact that there was a transfer being made in favour of the predecessor-in-interest of the petitioner by the Annual Pattadars, the order of the Additional Deputy Commissioner, Barpeta dated 24.05.2007 cancelling the Annual Pattas cannot be said to be contrary to law.

20. It is therefore the opinion of this Court that the order dated 24.05.2007 passed by the Additional Deputy Commissioner,

Barpeta do not call for any interference.

21. This Court has also perused the judgment and order dated 28.11.2008 passed by the learned Assam Board of Revenue and do not find any perversity to exercise the jurisdiction under Article 226 of the Constitution.

22. Accordingly, this Court therefore is of the opinion that the cancellation of the Annual Pattas pertaining to Dag No. 203 and 221 by the authorities concerned and being confirmed by the learned Assam Board of Revenue, do not call for any interference.

23. Having said so, this Court also finds it relevant to take note of Clause 11.2 of the Assam Land Policy, 2019 which is reproduced herein under:

“11.2 Government may examine the matter where transfer of Annual Patta land has been given effect to by the original pattadars to some other persons against the existing provisions and evolve a suitable mechanism to deal with such land so that no land remain under Annual Patta.”

24. It is very pertinent to take note of that the order dated 24.05.2007 passed by the Additional Deputy Commissioner, Barpeta as well as the judgment and order passed by the learned Assam Board of Revenue dated 28.11.2008 is based upon the

ground that there was a transfer made by the original Annual Patta holders. However, a perusal of Clause 11.2 of the Assam Land Policy, 2019 shows that the State Government, in its policy document, seeks to give some recognition to such transfer being made by the Annual Patta holders. However, it is also relevant at this stage to observe that the State Government in their policy take note of that such recognition is contrary to the existing provisions, and therefore would require evolving a suitable mechanism.

25. Mr. R. Borpujari, the learned Standing Counsel for the Revenue Department submitted that to his knowledge, no suitable mechanism as of now have been worked out.

26. In that view of the matter, till a suitable mechanism is not being worked out, mere recognition in Clause 11.2 of the Assam Land Policy, 2019 of such transfers made by the Annual Pattadars would not confer a recognition of the petitioner having a legitimate right over the land.

27. Accordingly, this Court disposes of the instant writ petition with the following observations and directions:

- (i) The impugned order dated 24.05.2007, passed by the Additional Deputy Commissioner, Barpeta, in NR Case No.

3/2006-07 is not interfered with.

(ii) The impugned judgment and order dated 28.11.2008 passed by the learned Assam Board of Revenue in Case No. 116 RA(B)/07 is not interfered with.

(iii) The observations made in Clauses (i) and (ii) hereinabove would not preclude the petitioner to seek allotment of the land under its possession (if any) in terms with the Assam Land Policy, 2019.

(iv) This Court further observes that in the circumstance any recognition is given by the State Government by evolving suitable mechanism as mentioned in Clause 11.2 of the Assam Land Policy, 2019, it shall not be a bar on the part of the petitioner to apply for the same.

(v) The records be returned.

JUDGE