

GAHC010020192014



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

Case No. : WP(C)/6909/2014

SRI TANKA DAHAL and 122 ORS,
S/O- LT. PREMLAL DAHAL, R/O VILL.- GADHARIYA BASTI.

VERSUS

THE STATE OF ASSAM and 5 ORS,
REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM, REVENUE
DEPTT., DISPUR, GUWAHATI.

Advocate for the Petitioner : MR. DEBEN SAIKIA

Advocate for the Respondent : ADDL. AG, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 19.07.2021

The Court proceedings have been conducted through online court proceeding services.

The Government of Assam in the Forest Department had issued a notification dated 07.08.1999 in exercise of powers conferred under Section 35 of the Wild Life (Protection) Act, 1972 whereby an area described in the schedule therein, has been declared as 6th Addition to Kajiranga National Park with effect from the date of publication of the notification in the Official Gazette.

Sub-section (1) of Section 35 of the Wild Life (Protection) Act has, *inter alia*, stated that whenever it appears to the State Government that an area, whether within a sanctuary or not, is, by reason of its ecological, faunal, floral, geomorphological or zoological association

or importance, needed to be constituted as a National Park for the purpose of protecting, propagating or developing wild life therein or its environment, it may, by notification, declare its intention to constitute such area as a National Park.

Sub-section (2) of Section 35 shall define the limits of the area which is intended to be declared as a National Park.

Section 35(3) has provided that where any area is intended to be declared as a National Park, the provisions of sections 19 to 26A (both inclusive except cause (c) of sub-section (2) of section 24) shall, as far as may be, apply to the investigation and determination of claims, and extinguishment of rights, in relation to any land in such area as they apply to the said matters in relation to any land in a sanctuary.

A perusal of the provisions of Section 19 to 26A goes to show that the Collector has to make an inquiry and an acquisition proceeding is to be initiated in so far as the claims of person interested and the Collector shall be deemed to be a Collector as per the Land Acquisition Act, 1894.

The petitioners herein, 123 in nos., have claimed that they are in occupation of lands failing within the area indicated in the notification dated 07.08.1999 and in Annexure-A to the writ petition, they have been indicated that they have been issued *Pattas* for the Dag numbers indicated therein.

None has appeared for the petitioners today on call.

The writ petition is pending since the year 2014 and no response has been filed by any of the State respondents till date.

Mr. R. Borpujari, learned Standing Counsel, Revenue Department for the respondent no. 1; Mr. K. Gogoi, learned Additional Senior Government Advocate for the respondent no. 2, 5 & 6; and Mr. D. Gogoi, learned Standing Counsel, Forest Department for the respondent nos. 3 & 4 have all jointly prayed for 4 (four) weeks' time to file their responses as a last opportunity. The affidavits to be filed on behalf of the State respondents shall clearly indicate as to whether (1) the petitioners are occupying lands within the area declared by the notification dated 07.08.1999; (2) if yes, whether they are occupying the lands by virtue of *Pattas* issued in their names, as claimed in the writ petition; (3) whether any acquisition proceedings have been initiated by the Collector in the meantime; and (4) if yes, the outcome of such acquisition process.

List the case on 24.08.2021.

The learned counsel appearing for the State respondents shall ensure that the necessary affidavits be filed on or before the next date of listing.

JUDGE

Comparing Assistant