

GAHC010021132019



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

Case No. : WP(C)/723/2019

MONMOTH KUMAR PAUL AND 6 ORS.

S/O. LT. CHITTA RANJAN PAUL, R/O. VILL. MAKUNDARBOND (PRESENTLY SRINAGAR), P.O. BAZARICHERRA-788723, DIST. KARIMGANJ, ASSAM.

2: SUROTH KUMAR PAUL

S/O. LT. CHITTA RANJAN PAUL
R/O. VILL. MAKUNDARBOND (PRESENTLY SRINAGAR)
P.O. BAZARICHERRA-788723
DIST. KARIMGANJ
ASSAM.

3: PROMOTH KUMAR PAUL

S/O. LT. CHITTA RANJAN PAUL
R/O. VILL. MAKUNDARBOND (PRESENTLY SRINAGAR)
P.O. BAZARICHERRA-788723
DIST. KARIMGANJ
ASSAM.

4: PANNALAL PAUL

S/O. LT. MANIK CHANDRA PAUL
R/O. VILL. MAKUNDARBOND (PRESENTLY SRINAGAR)
P.O. BAZARICHERRA-788723
DIST. KARIMGANJ
ASSAM.

5: SANJIT KUMAR PAUL

S/O. LT. SUNIL CHANDRA PAUL
R/O. VILL. MAKUNDARBOND (PRESENTLY SRINAGAR)
P.O. BAZARICHERRA-788723
DIST. KARIMGANJ

ASSAM.

6: INDRAJEET KUMAR PAUL

S/O. LT. SUNIL CHANDRA PAUL
R/O. VILL. MAKUNDARBOND (PRESENTLY SRINAGAR)
P.O. BAZARICHERRA-788723
DIST. KARIMGANJ
ASSAM.

7: RANJIT KUMAR PAUL

S/O. LT. SUNIL CHANDRA PAUL
R/O. VILL. MAKUNDARBOND (PRESENTLY SRINAGAR)
P.O. BAZARICHERRA-788723
DIST. KARIMGANJ
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, REVENUE
DEPTT., DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
REVENUE (SETTLEMENT) DEPTT.
DISPUR
GUWAHATI-781006.

3:THE DIRECTOR OF HIGHER EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-781019
ASSAM.

4:THE DY. COMMISSIONER

KARIMGANJ DISTRICT
P.O. KARIMGANJ-788710
ASSAM.

5:THE CIRCLE OFFICER

PATHARKANDI REVENUE CIRCLE
P.O. PATHARKANDI-7886724
DIST. KARIMGANJ

ASSAM

Advocate for the Petitioner : MR. N DHAR

Advocate for the Respondent : GA, ASSAM

BEFORE
THE HON'BLE MR. JUSTICE PRASANTA KUMAR DEKA
ORDER

16.08.2021

Heard Mr. N Dhar, learned counsel for the petitioners. Also heard Ms. S Sarma, learned counsel appearing on behalf of the respondent Nos. 4 and 5, Ms. N Bordoloi, learned standing counsel for the Revenue Department respondent Nos. 1 and 2 and Mr. S Bhuyan, learned standing counsel for the Higher Education Department.

The petitioners have claimed for settlement in respect of a land covered by Dag No. 392, 427, 432, 434, 438 of village Makundarbond under the same Mouza, Porgonah Pratapgarh, in the district of Karimganj. The said land originally belonged to Makunda Baptist Mid-Mission Trust. Property was managed by Baptist Mid-Mission Trustees India. The predecessor-in-interest of the petitioners were possessing their respective land as the tenants of the said land under Baptist Mid-Mission Trustees India wherein a church was operating. The excess land was acquired under the Assam State Acquisition of Lands belonging to Religious or Charitable Institution of Public Nature Act, 1959. Upon such acquisition it is the claim of the petitioners that as per Section 15 of the said Act, 1959, the petitioners were endowed with the status of the tenants and

entitled even for settlement of the said land. In order to support the said contention, Mr. Dhar relied a Kacha Khatian issued to the predecessor-in-interest of the petitioners in the year 1975. The area of the land specified there is 4 B 1 K and odd. Further a letter dated 15.06.1992 is annexed in this writ petition on the basis of which the representative of the Baptist Mid-Mission Trustees India expressed its no objection in settling the land under possession of the petitioners addressed to the Deputy Commissioner, Karimganj. Subsequently, there was a move for allotment of land for the purpose of construction of Government Model Degree College at Bazaricherra covering the lands of the petitioners. Prior to that on 29.08.2018, the petitioners through the representation to the Deputy Commissioner, Karimganj sought for settlement of the said land on the face of the proposed transfer of the said land for construction of the Government Model Degree College. As there was no reply against the said representation, the petitioners are before this court seeking for an appropriate direction.

The respondent No. 5 has filed affidavit-in-opposition wherein it is stated that the Baptist Mid-Mission Trustees India came before this Hon'ble court and filed a writ petition seeking for compensation and thereafter the said process of compensation is presently going on under the Deputy Commissioner, Karimganj. Accordingly, with the said stand it is submitted in the affidavit that the letter dated 15.06.1992 issued by the Secretary, Baptist Mid-Mission Trustees India had become infructuous. A specific stand was taken in the affidavit-in-opposition that the land in dispute was acquired by the Government of Assam vide order dated 07.02.2020 whereafter record was corrected by the Circle Officer, Patharkandi vide order dated 09.02.2020. The said affidavit-in-opposition

consists of the statement made on the basis of knowledge by the concerned Circle Officer, the respondent No. 5 without taking any assistance from any document as relevant from the affidavit.

In view of the same, Ms. Sarma shall take necessary instruction supported by relevant records in respect of the statement made in the affidavit-in-opposition dated 7th January, 2020 by the respondent No. 5. Mr. Dhar also raised an objection that the respondent No. 5 is the Circle Officer, Karimganj and on the other hand the record was corrected by the Circle Officer, Patharkandi vide order dated 09.02.2021 as such the affidavit-in-opposition has no value. Accordingly, Ms. Sarma shall take necessary instruction to that effect also. Ms. S Dasgupta, learned counsel assisting Mr. Dhar, learned counsel for the petitioners shall take necessary instruction from the petitioners in respect of any notice covering the acquisition process of the land of the Baptist Mid-Mission Trustees India under the provision of the said Act of 1959.

Keeping in view the issues involved in this writ petition, I am of the considered opinion that Baptist Mid-Mission Trustees India, a registered society having its registered office at Silchar-788001 in the district of Cachar, Assam along with its office at Patharkandi in the district of Karimganj is impleaded as the respondent No. 6. Ms. Dasgupta shall take steps on the newly impleaded respondent No. 6 by way of registered post with A/D within a period of three days from today. The petitioners are also granted liberty to take steps by way of dasti service within a period of three days after routing the same through the Registry of this court.

Let this matter be listed on 14.09.2021 for Admission. A copy of this order is allowed to be taken by Ms. Sarma, learned State counsel for taking necessary instruction from the concerned officials.

JUDGE

Comparing Assistant