

GAHC010047092022



2026:GAU-AS:2775

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

Case No. : WP(C)/1709/2022

PREMJIT SHARMA
S/O. MOHANLAL SHARMA, VILL. BONDA, P.O. BONDA, P.S. CHANDRAPUR,
DIST. KAMRUP (M), ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY., TO THE GOVT. OF ASSAM, REVENUE
AND DISASTER MANAGEMENT DEPTT., DISPUR, GUWAHATI-06.

2:THE DEPUTY COMMISSIONER

KAMRUP (M) DISTRICT
GUWAHATI-781001.

3:THE SUPDT. OF POLICE

POLICE HEAD QUARTER
ULUBARI
GUWAHATI-781007.

4:THE CIRCLE OFFICER

CHANDRAPUR REVENUE CIRCLE
KAMRUP (M)
ASSAM.

5:THE LAT MANDAL

OFFICE OF THE CIRCLE OFFICER
CHANDRAPUR REVENUE CIRCLE
KAMRUP (M)

ASSAM

Advocate for the Petitioner : MR S BORTHAKUR, MR. K K HANDIQUE,MR. D GOGOI

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

24.02.2026

Heard Shri D. Gogoi, learned counsel for the petitioner. Also heard Shri N. Das, learned State Counsel and Shri Satyajit Dutta, learned Standing Counsel, Revenue Department.

2. Considering the subject matter involved, the fact that this writ petition is of the year 2022 and also as agreed to by the learned counsel for the parties, the same is taken up for disposal at the admission stage.

3. As per the facts projected, the petitioner is the owner and possessor of a plot of land measuring 1 katha, 5 lechas covered by Dag No. 420 of KP Patta No.53 of revenue village Bonda under Mouza Beltola, Chandrapur Revenue Circle in the district of Kamrup (Metro). The petitioner claims that his name is also recorded in the jamabandi and he has been paying the land revenue. He has also constructed residential house in the year 2011. However, on 05.03.2022, the respondent nos. 4 and 5 had arrived at his plot and started demolition of his residential house without any prior notice. It is this action which is the subject matter of challenge in the present writ petition.

4. Shri Gogoi, the learned counsel for the petitioner has submitted that before taking the impugned action, no notice of any kind was issued. He has submitted that adjacent to his Myadi Patta land, there are Government lands,

which were under his occupation and without any notice, the impugned action has been taken. He has also drawn the attention of this Court to the order dated 08.03.2022, whereby an interim protection was granted not to take any action without following the due procedure of law and the relevant Rules in force. He has also submitted that the said interim order has been extended from time to time and is in operation.

5. Shri N. Das, learned State Counsel has however submitted that the land in question over which the eviction procedure has been conducted is covered by Dag No. 383 and is Government Khas land on which the petitioner had encroached unlawfully. He has however fairly conceded that before any action for eviction is taken, there is a requirement to follow the due process of law as laid down in the Assam Land and Revenue Regulation and the Rules framed thereunder. He has also referred to the principles laid down by this Court while interpreting the said Rules, including the judgment passed by the Hon'ble Division Bench in the case of ***Md. Salak Uddin Vs. State of Assam*** reported in ***2024 (4) GLT 857***.

6. Shri Satyajit Dutta, learned Standing Counsel, Revenue Department while endorsing the submissions of the learned State Counsel, has reiterated that the possession of the petitioner over the plot of land in question was illegal and therefore such an eviction process was done *bona fide*.

7. The law governing the subject is well settled. The Assam Land and Revenue Regulation and the Rules framed thereunder gives the power to the authorities to evict any encroachers from Government land. While interpreting the same, the Hon'ble Division Bench in the case of ***Salak Uddin*** (supra) has laid down as follows:

“63. We further find it very pertinent herein to observe that taking into

account Rule 18 of the Settlement Rules which deals with all kinds of lands post 1997 Amendment, the bonafide claim of right involved may be different in all such cases. In the case of Government khas land or waste land, an occupant/possessor may have a bonafide claim of right involved to claim settlement over the land on the basis of the Settlement Rules and extant Land Policy of the Government of Assam. In respect to other lands i.e. lands previously reserved for roads or roadside lands, or for grazing of village cattle or for other public purposes or the occupant had entered into possession of land from which he has been excluded by general or special order such lands are outside the purview of settlement. There is a complete bar in respect to granting settlements pertaining to lands reserved for roads or roadside lands or for grazing of village cattle. As regards land previously reserved for public purposes, it is outside the scheme of granting settlement. Under such circumstances, the question arises as to whether there is a requirement of issuance of any notice for adjudging as to whether there is a bonafide claim of right involved. In our opinion there might be various situations wherein there may be question of disputes pertaining to the boundary or there may be disputes pertaining to reservations or dereservation for grazing of village cattle or for that matter, there may be a dispute that the persons who have been granted the settlement in respect of a land even prior to being previously reserved for public purposes. The above examples are illustrative and there might be varied circumstances depending on situational variations. Under such circumstances, issuance of a notice in the opinion of this Court to form the subjective satisfaction would be inconsonance with the principles of natural justice and just fair, transparent procedure which are

facets of Article 14, 19 and 21 of the Constitution.”

8. This Court has also noticed that when this writ petition was moved, an interim direction was already granted not to take any action without following the due process of law and the relevant Rules in force.

9. In view of the above facts and situation, the instant writ petition is disposed of by directing that eviction proceeding is required to be preceded by a due opportunity to be given to the petitioner to show cause and explain his position. The interim order stands merged with the final order.

10. It is however made clear that there would be no bar for the respondent authorities to take steps to carry out the eviction and remove the encroachment strictly in accordance with law.

JUDGE

Comparing Assistant