

GAHC010048012021



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

Case No. : WP(C)/1735/2021

GOPAL BRAHMA @ GOPAL BORO
S/O- LT. TARANI BORO, R/O- VILL- GADHULIGAON, P.S. PATACHARKUCHI,
DIST.- BAKSA, BTAD, ASSAM, PIN- 781372

VERSUS

THE UNION OF INDIA AND 12 ORS.
REP. BY THE DEFENCE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF DEFENCE, SOUTH BLOCK, NEW DELHI- 110011

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
JANATA BHAWAN
DISPUR
GHY-06

3:THE BODOLAND TERRITORIAL COUNCIL
REP. BY ITS PRINCIPAL SECRETARY
BODOLAND SECRETARIAT
BODOFA NWGWR
KOKRAJHAR
BTR
ASSAM- 783370

4:THE DEFENCE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF DEFENCE
SOUTH BLOCK
NEW DELHI- 110011

5:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.

JANATA BHAWAN
DISPUR
GHY-06

6:THE PRINCIPAL SECRETARY
BODOLAND TERRITORIAL COUNCIL
BODOLAND SECRETARIAT
BODOFA NWGWR
KOKRAJHAR
BTR
ASSAM- 783370

7:THE CHIEF OF ARMY STAFF
INDIAN ARMY
INTEGRATED HEADQUARTERS OF MINISTRY OF DEFENCE (ARMY)
SOUTH BLOCK
NEW DELHI- 110011

8:THE GENERAL OFFICER COMMANDING-IN-CHIEF
EASTERN COMMAND
INDIAN ARMY
FORT WILLIAM
HASTINGS
KOLKATA- 700021

9:THE DIRECTOR GENERAL DEFENCE ESTATES
MINISTRY OF DEFENCE
GOVT. OF INDIA
RAKSHA SAMPADA BHAWAN
ULAANBAATAR MARG
DELHI COMMANDANT
NEW DELHI- 110010

10:THE DEFENCE ESTATES OFFICER
TEZPUR CIRCLE
TEZPUR
DIST.- SONITPUR
ASSAM- 784001

11:THE DY. COMMISSIONER
BAKSA
MUSHALPUR
DIST.- BAKSA
BTR
ASSAM- 781371

12:THE CIRCLE OFFICER
JALAH REVENUE CIRCLE

JALAHGHAT
DIST.- BAKSA
BTR
ASSAM- 784001

13:THE COMMANDING OFFICER
ARMY CAMP
SIMLA
INDIAN ARMY
C/O 99 AP

Advocate for the Petitioner : MR. P D NAIR, MR. H ROHMAN,S R A NASER,MR G ALAM

Advocate for the Respondent : ASSTT.S.G.I., MR A BHATTACHARYA (SC, REVENUE AND DISASTER MANAGEMENT DEPARTMENT),MR H GUPTA,MR H GUPTA,MR. C K S BARUAH,SC, BTC,SR. GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

05.12.2025

1. Heard Mr. P.D. Nair, learned counsel for the petitioner. Also heard Mr. H. Gupta, learned CGC for the respondent nos. 1, 4, 7, 8, 9, 10 & 13; Mr. A. Bhattacharya, learned Standing Counsel, Revenue and Disaster Management Department for the respondent no. 2; Mr. B.C. Muchahary, learned Standing Counsel, BTC for the respondent nos. 3, 6 & 12 and Ms. M. Barman, learned counsel for the respondent no. 11.
2. The claim of the petitioner in this writ petition is that a certain plot of land, along with constructions thereon, was occupied by the Indian Army from 2008 for the purpose of establishing a Company Operating Base (COB). The petitioner contends that he was neither receiving rent nor any compensation for such occupation. He approached the authorities for redress, but when his representations went unheeded, he filed the present

writ petition before this Court. Subsequent to the filing of the petition, the Indian Army vacated the land and the constructions thereon. Various affidavits were filed by the contesting respondents, wherein the ownership of the petitioner over the plot of land and the constructions was disputed. The Union of India, in its stand, submitted that since the assessment of the land and determination of compensation, if any, had not been made by the state authorities, they were not in a position to pay any compensation.

3. The learned counsel for the BTC has drawn the attention of this Court to the para-wise reply submitted by the Circle Officer of Jalah Revenue Circle, Jalahghat, BTAD, to the Secretary (Revenue), BTC, Kokrajhar. In the reply, it has been clarified that, as per the latest Mandal report, the plot of land is recorded in the name of the petitioner herein, and on the said plot of land, pucca houses exist which were then used by the Army Camp. The Circle Officer, Jalah, also received a letter from the Office of the Deputy Commissioner, Baksa, seeking a detailed report, and in response, the report stated as follows: –

- i. Name of Original Pattadar: Sri Gopal Brahma, S/O. Tarani Boro, Vill.: Hazuwa, Mouza: Koklabari.*
- ii. Schedule of Land: Patta No. 145 (kheraj Myadi), Dag No. 310 Amount of Land-2 Bigha, Vill. Hazuwa, Mouza: Koklabari.*
- iii. The said plot of land and residential houses are under the possession of Indian Army (JAT Regiment) since 2008 till date.*

iv. No house rent has been received till date by the land owner from Indian Army JAT Regiment. And currently it is learnt from the latest LM's report (Annexure-I) that the status quo has been maintained.

4. It was further reported that the disputed land was under the possession of the Indian Army as of 04.05.2021. The learned counsel for the petitioner, however, submits that, in fact, the property was vacated by the Indian Army on 22.12.2021, as per the report of the Circle Officer.
5. It is evident that there is no dispute regarding the fact that the property of the petitioner had been occupied by the Indian Army, which, as stated, was handed over by the District Administration. The issue that requires the attention of this Court is the manner in which the petitioner is now to be compensated for the use of this land and property by the Indian Army, which is alleged to have been handed over by the District Administration without any rent or compensation having been paid to the petitioner for such use.
6. In such circumstances, this Court directs the Circle Officer of the Jalah Revenue Circle, Jalahghat, BTAD, Assam (Respondent No. 12), to conduct an inquiry, with the assistance of the Revenue Authorities of the Government of Assam, if required, to assess the market value of the land and the compensation for the use of the petitioner's property by the Indian Army. The Circle Officer is further directed to assess the cost of the constructions on the property and to submit a detailed report to this Court by way of affidavit on the next date fixed.
7. The learned counsel appearing for the Indian Army shall place before the Court the notification on the basis of which arrears of rent are calculated

when premises under the Defence Estates Officer are occupied by persons who are not legally authorized to continue such occupation.

8. Let this matter be listed in the 2nd week of February, 2026, on a date to be fixed by the Registry, by which time Respondent No. 12 shall ensure that the assessment of the property is completed.
9. Mr. Gupta shall also ensure that the requisite notifications are placed before this Court.
10. The instructions produced by Mr. B.C. Muchahary, learned Standing Counsel, BTC, are kept on record and marked as Annexure-(Y).

JUDGE

Comparing Assistant