

GAHC010063662018



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

Case No. : WP(C) 2255/2018

1:SAMEL PROJA
S/O KUSH PROJA
R/O SUKANSUTI, BORGANG
DIST. BISWANNATH, ASSAM

VERSUS

1:THE STATE OF ASSAM AND 2 ORS.
REP. BY THE CHIEF SECRETARY GOVT. OF ASSAM,
ASSAM SECRETARIAT, DISPUR, GUWAHTI-781006.

2:THE DEPUTY COMMISSIONER
BISWANATH
BISWANATH CHARIALI
ASSAM- 784176.

3:THE CIRCLE OFFICER
BISWANATH REVENUE CIRCLE
BISWANATH CHARIALI
ASSAM

PIN - 784176

Advocate for the Petitioner : MS. D GHOSH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 28-05-2018

Heard Ms. D Ghosh, learned counsel for the petitioner. Also heard Mr. G Pegu, learned State counsel appearing for the respondent authorities.

2. The petitioner, who belongs to the Tea Garden Community claims to have been residing over a plot of land measuring 5 bighas in the Biswanath district. It is stated that initially the said land had been in occupation of the grandfather of the petitioner, Sri Donu Proja for almost 45 years. The Deputy Commissioner of erstwhile Sonitpur district had also issued a certificate of land allotment (Land in possession of Farmer Raiat) of occupied land as per the Assam Fixation of Ceiling on Land Holdings Act in favour of Sri Donu Proja, who is admittedly the grandfather of the present petitioner. The schedule of the land described in the land allotment is of Dag No.89/98, 88/97 of village Ketela Grant No.387/574, Mouza Behali, Touzi Bahir Revenue. The petitioner also claims that they were given the benefit under AIY Scheme for construction of house and accordingly upon receiving such grant, they had constructed a residential structure over the aforesaid land and had been living thereon.

3. It is the grievance of the petitioner that on 22.02.2018 a group of people came with a JCB and demolished the house of the petitioner, although no such notice of demolition was served on the petitioner and the house hold items that were inside the house were taken away, which according to the petitioner was of a value of Rs.40,000/-. The petitioner alleges that such demolition and eviction of his house without any notice being served and without any proceeding held was so done by the District Administration.

4. In view of the *prima facie* satisfaction being arrived at that there is a land allotment certificate in favour of the petitioner over the aforesaid land and also keeping in view that by the earlier orders dated 11.04.2018 and 07.05.2018, the respondent authorities were required to show cause as to why interim order shall not be passed which they have failed to respond and further considering the factor that by the communications dated 18.04.2018 and 08.05.2018, the learned State counsel had required the Deputy Commissioner Biswanath district to respond to the claim of the petitioner and the orders of this Court and further this Court being satisfied that the balance of convenience is in favour of the petitioner and also considering the irreparable loss that the petitioner may suffer, if an interim order is not passed, accordingly, it is directed that the respondent authorities, more particularly, the authorities in the District Administration of Biswanath district not to disturb the petitioner's peaceful

possession and utilization of the aforementioned land as described in the land allotment certificate, which is annexed as Annexure-2, Page 19 to the writ petition.

5. As prayed for by Mr. G Pegu, learned State counsel, list the matter again on 16.07.2018.

JUDGE

Comparing Assistant