

GAHC010072032020



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

Case No. : WP(C) 2169/2020

1:MRIDUL GOGOI
S/O- LT. KIRTI NATH GOGOI, R/O- NA ALI, OLD WATER TANK, NEAR LIONS
CLUB, MUNICIPAL HOLDING NO. 6, WARD NO. 10, JORHAT TOWN, IN THE
DIST. OF JORHAT, ASSAM

VERSUS

1:THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, MUNICIPAL
ADMINISTRATION DEPTT., DISPUR, GHY-06

2:THE DY. COMMISSIONER
JORHAT
ASSAM
PIN- 785001

3:THE JORHAT MUNICIPAL BOARD
JORHAT
REP. BY THE ADDL. DY. COMMISSIONER CUM EXECUTIVE OFFICER
JORHAT
ASSAM
PIN- 78500

Advocate for the Petitioner : MR. R BORUAH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 18-05-2020

Heard Mr. A. Dhar, learned counsel for the petitioner. Also heard Ms. M. Bhattacharjee, learned Additional Senior Govt. Advocate appearing for the respondents No.1 and 2.

2. The father of the petitioner Late Kirti Nath Gogoi was an employee of the Jorhat Municipal Board who had retired from service on 01.04.1994. A stand is taken that during his lifetime, the father of the petitioner constructed an Assam Type Permanent structure over a land measuring 2 kathas covered by Sarkari Dag No.4986, Ward No.10 of Jorhat Town in the year 1963. He had done the construction by clearing the jungles at that point of time and since then, the father of the petitioner and thereafter presently the petitioner is residing in the said Assam Type structure. The Jorhat Municipal Board issued a notice dated 30.04.2020 taking a stand while the father of the petitioner was working as an employee of the Board, a residential house of the Jorhat Municipal Board was allotted in his name but even after retirement, the petitioner has not handed over the house back to the Jorhat Municipal Board and therefore, it was required that the petitioner vacate the residential house within a period of 3 days.

3. Being aggrieved, this writ petition has been instituted.

The petitioner having taken a stand that the house in concerned is located by Sarkari Dag No.4986 of Ward No.10 of Jorhat town, we are view of the view that in order to sustain the notice dated 30.04.2020, Jorhat Municipal Board would be required to produce the relevant revenue records to show that the land in question where the house is located stands in the name of the Jorhat Municipal Board. No such indication is given in the impugned notice.

4. In the aforesaid circumstance, being prima facie satisfied, considering the balance of convenience and the irreparable loss that the petitioner may suffer, the notice dated 30.04.2020 is stayed until further order.

5. It is stated that the authorities of the Jorhat Municipal Board had put a lock in the front door of the house of the petitioner.

6. In view of the interim order pass today, the Jorhat Municipal Board is directed to

remove such lock and not to disturb the peaceful possession of the petitioner till the currency of the present interim order we have passed.

7. However, liberty is given to the Jorhat Municipal Board to approach the Court with appropriate records to substantiate that the Sarkar Dag No.4986 of Ward No.10 of Jorhat town is a land belonging to the Jorhat Municipal Board and upon production of such record, a further continuation of the interim order would be considered.

8. Issue notice, returnable on 12.06.2020. Steps by registered post as well as by dasti service through the Registry of the Court and thereafter file affidavit.

JUDGE

Comparing Assistant