

GAHC010045372020



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

Case No. : WP(C)/5409/2018

URRUNABAND TEA ESTATE
A PROPRIETORIAL CONCERN HAVING ITS OFFICE AT P.O. SALGANGA
SILCHAR IN THE DIST. OF CACHAR
ASSAM
REP. BY ITS SENIOR MANAGER AND POWER OF ATTORNEY HOLDER
SRI JAYANTA BANERJEE
SON OF LT. TARIT PRAKASH BANERJEE
R/O URRUNABAND TEA ESTATE
P.O. SALGANYA
SILCHAR IN THE DIST. OF CACHAR
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM

DEPARTMENT OF LAND AND REVENUE ASSAM.

2:THE DEPUTY COMMISSIONER

CACHAR
P.O. DIST. CACHAR
ASSAM

3:THE SETTLEMENT OFFICER

SADAR CIRCLE

OFFICE OF THE SETTLEMENT OFFICER
SADAR CIRCLE

SILCHAR.

4:THE ASSISTANT SETTLEMENT OFFICER

SADAR CIRCLE

SILCHAR

OFFICE OF THE ASSISTANT SETTLEMENT OFFICER

SADAR CIRCLE

SILCHAR.

For the Petitioner(s) : Mr. G. N. Sahewalla, Sr. Advocate
: Mr. H. K. Sharma, Advocate

For the Respondent(s) : Mr. R. Borpujari, Standing Counsel
: Mr. J. Handique, Government Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 24.04.2026

Heard Mr. G. N. Sahewalla, the learned Senior counsel assisted by Mr. H. K. Sharma, the learned counsel appearing on behalf of the Petitioner and Mr. R. Borpujari, the learned Standing counsel appearing on behalf of the Revenue Department. I have also heard Mr. J. Handique, the learned Government Advocate appearing on behalf of the District Administration as well as the Settlement Officer.

2. The Petitioner herein has assailed the order dated 29.06.2018 passed by the learned Deputy Commissioner Cachar, Silchar, (Land Ceiling Branch).

3. The brief facts which led to the filing of the instant petition are that a proceeding under the Assam Fixation of Ceiling on Land Holdings Act, 1956 (for short 'the Act of 1956') was initiated and registered and numbered as Land Ceiling Case No.1/75-76. An order was passed on 04.07.1983 by the Office of the Deputy Commissioner, Cachar, Silchar thereby coming to a finding that 3690 Bighas 4 Kathas 0 Chatak was the total surplus land and out of the said, 2552 Bighas 2 Kathas, 1 Chatak was acquired by the Collector and there was a balance areas of ceiling surplus liable for acquisition comes to 138 Bighas 1 Katha, 0 Chatak.

4. A revision was filed under Section 7(6) of the Act of 1956 by the Petitioner before the Revenue Department of the Government of Assam and an order was passed on 22.05.1984 holding inter alia that the Petitioner Estate should be allowed to retain 1200 Bighas of land at Khaspurgrant in addition to the area already allowed by the Collector.

5. Pursuant thereto, the Office of the Deputy Commissioner, Cachar had written a letter to the Special Secretary to the Government of Assam, Revenue (Reforms) Department in the month of September, 1985. The records further reveal that on 19.09.1986, some order was passed by the Governor of Assam through the Deputy Secretary to the Government of Assam

whereby the revision petition filed by the Petitioner under Section 7(6) of the Act of 1956 was rejected.

6. The Petitioner thereupon challenged the said order dated 19.09.1986 before this Court by filing a petition which was registered and numbered as Civil Rule No. 1343/1986 and the learned Division Bench of this Court vide a judgment and order dated 09.04.1991 set aside the order dated 19.09.1986 on the ground that the said order was passed in violation to the principles of natural justice. The learned Division Bench of this Court further directed the State Government in the Revenue Department for fresh hearing of the revision petition and dispose of the same on merits in accordance with the law within a period of 4 (four) months after duly serving notices upon the parties.

7. The records further reveal that there were certain correspondences by the Revenue Department with the Petitioner in respect to the Land Ceiling Case No.1/75-76 but from the materials on record, it does not show as to whether there was any hearing granted to the Petitioner and any order passed by the Revenue Department as directed by the learned Division Bench of this Court in Civil Rule No.1343/1986.

8. Be that as it may, it is seen that a notification was issued on

03.02.2018 by the Deputy Commissioner Cachar, which apparently was a notification of the draft statement in terms of Section 7(2) of the Act of 1956 calling for objections.

9. The question arises is as to whether the Revenue Department of the Government of Assam passed any order in pursuance to the directions passed by this Court dated 09.04.1991 in Civil Rule No.1343/1986 inasmuch as in absence of such order, the Deputy Commissioner, Cachar would not have the jurisdiction to issue the draft notification dated 03.02.2018 which is at Annexure-XVII of the writ petition. It is further observed that in the circumstance the notification dated 03.02.2018 cannot be issued by the Deputy Commissioner, the impugned order which was passed on 29.06.2018 cannot withstand the scrutiny of law.

10. An affidavit has been filed by the Respondent No.2 and there is no clarity on the said aspect.

11. Mr. R. Borpujari, the learned Standing counsel who appears on behalf of the Revenue Department submits that he would like to peruse the records and file an additional affidavit, if so required.

12. List this matter again on 08.06.2026.

13. In the meantime, the additional affidavit be filed on or

before 03.06.2026.

14. The records pertaining to Land Ceiling Case No.1/75-76 be also produced on the next date.

15. Interim order passed if any, stands extended till the next date.

JUDGE

Comparing Assistant