

GAHC010188632023



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

Case No. : WP(C)/5009/2023

JAHANGIR ALI SHAIKH AND 7 ORS.
S/O- LATE HAZARAT ALI SHAIKH, RESIDENTS OF- ALOMGANJ PART VII,
P.O. ALOMGANJ, DISTRICT- DHUBRI

2: MOYNAL HAQUE
S/O- LATE HAZARAT ALI SHAIKH
RESIDENTS OF- ALOMGANJ PART VII
P.O. ALOMGANJ
DISTRICT- DHUBRI

3: JIY AUL HAQUE
S/O- LATE HAZARAT ALI SHAIKH
RESIDENTS OF- ALOMGANJ PART VII
P.O. ALOMGANJ
DISTRICT- DHUBRI

4: MOZIBAR RAHMAN
S/O- LATE MANIK ULLAH SHAIKH
RESIDENTS OF VILLAGE- CHAUTARA
P.O. AND P.S. GAURIPUR
DISTRICT- DHUBRI
PIN NO. 783331

5: MUNJURUL HAQUE
S/O- LATE MANIK ULLAH SHAIKH
RESIDENTS OF VILLAGE- CHAUTARA
P.O. AND P.S. GAURIPUR
DISTRICT- DHUBRI
PIN NO. 783331

6: SAHAR ALI
S/O- LATE SORHAB ALI
RESIDENTS OF VILLAGE- DALANERALGA PART 2
P.O. AND P.S. GAURIPUR

DISTRICT- DHUBRI
PIN NO. 783331

7: AHAR ALI
S/O- LATE SORHAB ALI
RESIDENTS OF VILLAGE- DALANERALGA PART 2
P.O. AND P.S. GAURIPUR
DISTRICT- DHUBRI
PIN NO. 783331

8: JAHANUDDIN
RESIDENT OF- VILLAGE- CHAUTARA
P.O. AND P.S. GAURIPUR
DISTRICT- DHUBRI
PIN NO. 78333

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY, DEPARTMENT
OF REVENUE AND DISASTER MANAGEMENT, GOVERNMENT OF ASSAM,
P.O. DISPUR, GUWAHATI- 781006

2:THE COMMISSIONER AND SECRETARY
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT
GOVERNMENT OF ASSAM
P.O. DISPUR
GUWAHATI- 781006

3:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY TO BODOLAND
TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM
PIN NO- 783370

4:THE JOINT SECRETARY
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM
PIN NO.- 783370

5:THE COMMANDANT
20TH AP (IR) BN. HEADQUARTER
PANBARI
DISTRICT- DHUBRI
PIN NO- 783339

6:THE DEPUTY COMMISSIONER
KOKRAJHAR
PIN NO.- 783370

7:THE CIRCLE OFFICER
BAGRIBARI REVENUE CIRCLE
P.O.- BAGRIBARI
DISTRICT- KOKRAJHAR
PIN NO- 78334

Advocate for the Petitioner : MR. SURAJIT DAS

Advocate for the Respondent : SC, BTC

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

13.03.2024

1. Heard Mr. S Das, learned counsel for the petitioners. Also heard Mr. RK Mushahari, learned counsel for the respondent Nos. 3,4 and 7, Mr. BJ Talukdar, learned Senior counsel for the Department of Home Affairs, State of Assam and Ms. PR Mahanta, learned counsel for the respondent Nos. 1 and 2.
2. The grievances of the petitioners are that their patta lands are in occupation of respondent No. 5 and such occupations are without any sanction and authority under law inasmuch as neither the patta lands of the petitioners have been acquired nor any compensation have been paid to them.
3. The BTC authority more particularly the Joint Secretary, BTC has filed an affidavit and has taken a stand that land covered by Dag Nos. 32,33,92,93,94 and 95 measuring 9 Bighas 0 Kath 17 Lechas is under possession of 20th Assam Police (IR) Battalion, Panbari. The Dags are located contiguously in the eastern boundary of Government Khas land under Dag No. 31/31, which has been allotted in favour of the Battalion at Panbari.
4. The relevant portion of report of the Circle Officer on the basis of which such

affidavit has been filed is quoted hereinbelow:

“As per record, land measuring 1B-2K-01L covered by Dag No. 32(N)/28(O) under Periodic Kheraj Patta No. 59 is recorded in the name of (1) Md. Sahar Ali, S/O-Sorhab Ali and (2) Jahan Uddin, S/O Kamal Sheikh as pattadar. Land measuring 1B-0K-0L covered by Dag No. 92(N)/88(O), 2B-2K-10L covered by Dag No. 93(N)/89(O), 0B-2K-10L covered by Dag No. 94(N)/90(O) and 1B-2K-10L covered by Dag No. 95(N)/91(O) of under periodic Kheraj Patta No. 58 is recorded in the name of (1) Sorhab Ali, S/O Lt Jobed Ali, (2) Manik Ullah Sheikh, S/O Kamal Sheikh as pattadar. Land measuring 2B-1K-06L covered by Dag No. 33(N)/29(O) under Periodic Kheraj Patta No. 35 is recorded in the name of Hazrat Ali, S/O Lt Natu Sheikh as Pattadar.

That the final Patta(s) in respect of aforesaid patta No. 59,58,35 are found to be issued in the name of the respective pattadars concerned in the year of 2012 from erstwhile Dhubri Revenue Circle.

On field verification, it is found that the aforesaid scheduled of patta land covered by Dag No. 32,33,92,9394 & 95 total land measuring 9B-0K-17L is under possession of 20 AP(IR), Battalion, Panbari since long time and pattadar have no possession over the land in question. The aforesaid Dags are located contiguously in the eastern boundary of Govt. Khas Dag No. 31/31 which had allotted in favour of 20 AP(IR) Battalion, Panbari.”

5. In view of such unambiguous stand, it is clear that the patta lands of the petitioners are under possession of the battalion. In the aforesaid backdrop, Mr. BJ Talukdar, learned Senior counsel representing the respondent No. 5 submits that he may be granted some time to obtain instruction from his client as regards the aforesaid stand of the BTC authority as well as the report of the Circle Officer.
6. It is submitted by the learned counsel for the BTC authority that a copy of the affidavit filed has also been served upon the office of the learned Senior Government Advocate.

7. Prayer for adjournment stands allowed.
8. List this matter on 25.04.2024.

JUDGE

Comparing Assistant