

GAHC010199302023



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

**Case No. : WP(C)/5685/2023**

DEBENDRA NATH PHUKAN  
S/O LATE MOHINI NATH PHUKAN, R/O 19, MARTELLO COURT,  
PORTMARNOCK, DUBLIN, D13XF85, IRELAND. THROUGH HIS LEGALLY  
CONSTITUTED ATTORNEY SHRI AMAL BORAH, S/O LATE BHABANI  
CHARAN BORAH, AGED ABOUT 72 YEARS, R/O HOUSE NO. 8,  
MALIBAGAN, KHARGULI, GUWAHATI-781004, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY, REVENUE  
DEPARTMENT, KAMRUP (M), DISPUR, GUWAHATI-6

2:THE DEPUTY COMMISSIONER  
KAMRUP (M)  
GUWAHATI

3:THE ADDITIONAL DEPUTY COMMISSIONER  
KAMRUP (M)  
GUWAHATI

4:THE CIRCLE OFFICER  
GUWAHATI REVENUE CIRCLE  
GUWAHATI

5:BIRENDRA NATH PHUKAN  
S/O LATE MOHINI NATH PHUKAN  
R/O M.C. BARUAH ROAD  
BARUWARI  
GUWAHATI-781001  
DIST- KAMRUP (M)  
ASSA

Advocate for the petitioner(s) : Mr. M. K. Choudhury,  
Mr.M. Sarma

Advocate for the respondent(s): Mr. N. Goswami, (R-2 to 4)  
Mr. S. Baruah (R-5)  
Mr. J. C. Handique (SC, Revenue Department)

Date of Hearing and Judgment : 29.07.2024

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGEMENT AND ORDER (ORAL)**

Heard Mr. M. K. Choudhury, the learned Senior Counsel assisted by Mr. M. Sarma appearing on behalf of the petitioner. Mr. N. Goswami, the learned counsel appearing on behalf of the respondent Nos. 2, 3 and 4; Mr. S. Baruah, the learned counsel appearing on behalf of the respondent No. 5; Mr. J.C. Handique, the learned counsel appearing on behalf of the Revenue Department.

2. The petitioner is aggrieved by the inaction on the part of the respondent No. 2, 3 and 4 in not disposing of the Demarcation Case No. 382/2017-18, whereby the petitioner has sought demarcation of his land measuring 2 katha, 5.22 lechas covered by Dag No. 850 included in K.P. Patta No.592 under Ulubari Mouza Village-Sahar Guwahati, Part No. 7.

3. This Court has duly taken note of that notice was issued by this Court on 30.10.2023 and observation has also been made in the said order that there is an objection which was filed by the respondent No. 5 and it was on account of that, the demarcation proceedings has not been disposed of. This Court also takes note of that an affidavit has been filed by the respondent Nos. 2, 3 & 4 wherein it has been mentioned that there is a civil litigation pending between the petitioner and the respondent No. 5. Today Mr. N. Goswami, the learned counsel appearing on behalf of the respondent Nos. 2, 3 & 4 submitted on instructions that the demarcation proceedings was stopped on account of objection being filed by the respondent No. 5 in view of the pendency of the Title Suit No. 326/2019.

4. This Court has also perused the objection which was filed as the same was made a

part of the instructions which was submitted by Mr. N. Goswami, the learned counsel appearing on behalf of the respondent Nos. 2,3 & 4. The objection is based upon Section 100 of the Assam Land and Revenue Regulations 1886. This Court has duly perused the provisions of Section 100 of the Regulations of 1886. The said provision is in respect to a partition wherein it is stipulated that if there is a dispute as regards the title over the property in question, the Revenue Authorities should direct the parties to approach the Civil Court and get a decree in that regard. In the instant case, however, the issue involved is not as regards partition but as regards demarcation whereby the petitioner has sought that the land measuring 2 kathas, 5.22 lechas covered by Dag No. 850 included in K.P. Patta No.592 under Ulubari Mouza, Village-Sahar, Guwahati Part No. 7 be demarcated.

5. Under such circumstances this Court, is of the opinion that the Revenue Authorities can very well go ahead with the demarcation. However, in doing so shall not disturb the possession of either of the parties taking into account that there is a civil proceedings pending. Accordingly, this Court therefore directs the Circle Officer, Guwahati Revenue Circle, i.e. the respondent No. 4 to carry out the demarcation as regards the plot of land measuring 2 kathas, 5.22 lechas covered by Dag No. 850 included in K.P. Patta No. 592 under Ulubari Mouza, Village-Sahar, Guwahati part 7. by giving proper notice to the persons in the boundary of the said plot of land and thereupon show the respective boundaries of the said plot of land.

6. It is made clear that the possession of none of the parties should be disturbed on the said basis of demarcation proceedings.

7. On the basis of said demarcation so carried out the respondent No. 4 shall also prepare a minutes and duly circulate it with the petitioner as well as respondent No. 5. The said exercise be completed within 3 months from the date a certified copy of the instant order be served upon the respondent No. 5.

8. With the above observation(s) and Directions(s) the instant writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**