

GAHC010207212016



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

Case No. : WP(C) 5682/2016

1: PATARKUCHI VILLAGE DEFENCE PARTY and ANR
REP. BY ITS PRESIDENT, VILL. PATARKUCHI, P.O. and P.S. BASISTHA, DIST.
KAMRUPM, ASSAM.

2: SRI DILIP KUMAR BHATTACHARYA
THE PRESIDENT OF PATARKUCHI VILLAGE DEFENCE PARTY

VERSUS

1: THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM,
DEPTT. OF REVENUE SETTLEMENT, DISPUR, GUWAHATI-781006.

2: THE DEPUTY COMMISSIONER
KAMRUPM
GUWAHATI - 781001.

3: THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
BASISTHA CHARIALI
GUWAHATI-781028.

4: SHRI GHANAKANTA KALITA
S/O. LATE DHAIRJYARAM KALITA
R/O. RIVER RESOURCES COLONY
BELTOLA
GUWAHATI-08.

5: SHRI KAVYA KANTA GOGOI
S/O. LATE UMA KANTA GOGOI
R/O. SOURAV NAGAR
BELTOLA
GUWAHATI-28.

6:SMTI. INDRANI GOGOI
W/O. SHRI KAVYA KANTA GOGOI
R/O. SOURAV NAGAR
BELTOLA
GUWAHATI-28

7:SHRI BIDYADHAR KUMBHAKAR
S/O. UNKNOWN
R/O. PATARKUCHI
BASISTHA
GUWAHATI-28.

8:SMTI. INDRA DEVI KUMBHAKAR
W/O. SHRI BIDYADHAR KUMBHAKAR
R/O. PATARKUCHI
BASISTHA
GUWAHATI-28

Advocate for the Petitioner : MR. A DEKA

Advocate for the Respondent : MS. M BHATTACHARJEE, (ADDL. SR. GA, ASSAM)

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 15.10.2020

Heard Mr. D.C.C. Phukan, learned counsel for the petitioners. Also heard Mr. T.C. Chutia, learned Addl. Senior Govt. advocate appearing for the State respondents No. 2 and 3.

Mr. A.K. Sarma, learned counsel appears for respondents No. 4 to 8 and submits that affidavit-in-opposition has been filed which is available on record.

On a Court query, the learned Addl. Senior Govt. Advocate has submitted that as per his record, on 04.11.2019 he has requested the Circle Officer, Dispur Revenue Circle (respondent No.3) to appear before his office and to sign an affidavit. He submits that the Circle Officer has not turned up to swear the affidavit.

Under such circumstances, the Court is inclined to direct the Commissioner and Secretary to the Govt. of Assam, Department of Revenue (Settlement), Dispur (respondent

No.1) to assign the Circle Officer, Dispur Revenue Circle to attend the office of the learned Senior Govt. advocate, Gauhati High Court on each and every day from 10.30 AM to 5.00 PM till the affidavit-in-opposition by him is settled and filed before this Court. The Court issues further direction to the Commissioner and Secretary to the Govt. of Assam, Department of Revenue (Settlement), Dispur to daily review the attendance slip given by the office of the learned Senior Govt. advocate to ensure as to whether the Circle Officer, Dispur Revenue Circle has attended the office of the learned Senior Govt. advocate to provide adequate instruction and to swear and sign affidavit-in-opposition. On all those days, the Circle Officer, Dispur Revenue Circle will attend the office of the learned Senior Govt. advocate, he shall be marked absent in duty as he would not be attending his office.

If for any reason, the Circle Officer, Dispur Revenue Circle does not attend the office of the learned Senior Govt. advocate despite orders by the Commissioner and Secretary to the Govt. of Assam, Department of Revenue (Settlement), Dispur, the Court hopes that the said authority aware of his powers and would exercise the same in public interest.

The learned counsel for the petitioners submits that the petitioner is facing eminent eviction. Accordingly, the Court is inclined to provide that the Circle Officer, Dispur Revenue Circle shall not evict the petitioners, namely, (1) Patarkuchi Village Defence Party and (2) Sri Dilip Kumar Bhattacharya till the next date of listing.

Let a copy of the order be provided to the learned Addl. Senior Govt. advocate for communicating it to the Commissioner and Secretary to the Govt. of Assam, Department of Revenue (Settlement), Dispur (respondent No.1).

List after ensuing Puja vacation on a date to be fixed by the office.

JUDGE

Comparing Assistant