

GAHC010228872019



2026:GAU-AS:3277

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

Case No. : WP(C)/7062/2019

BASER ALI
S/O LT. SABAR ALI, R/O VILL. KATHONIBARI, P.O. AND P.S. THELAMARA,
DIST. SONITPUR, ASSAM, PIN-784149

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE CHIEF SECRETARY GOVT. OF ASSAM, DISPUR, GUWHATI-6

2:THE COMMISSIONER AND SECRETARY
GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT. DISPUR
GUWAHATI-781006
ASSAM

3:THE DEPUTY COMMISSIONER
SONITPUR
TEZPUR
PIN-784001

4:THE CIRCLE OFFICER
THELAMARA REVENUE CIRCLE
DIST. SONITPUR
ASSAM
PIN-784149

5:LAKSHYA JYOTI DAS
CIRCLE OFFICER
THELEMARA REVENUE CIRCLE
DIST. SONITPUR
ASSAM
PIN-784149

6:KESHAB KOCH
S/O LT. MANGAL KOCH
R/O VILL. KATHONIBARI
P.O. AND PS THELAMARA
DIST. SONITPUR
ASSAM PIN-78414

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

Advocate for the petitioner(s): Ms. M Borah

Advocate for the respondent(s): Mr. BJ Talukdar, Senior Advocate

Mr. PK Medhi

Ms. N Bordoloi, Standing Counsel

Revenue & Disaster Management

Deptt.

Date on which Judgment is reserved: NA

Date of Pronouncement of Judgment : **27.02.2026**

Whether the Pronouncement is of the : NA

Operative Part of the Judgment

Whether the Full Judgment has been : Yes

Pronounced

JUDGMENT & ORDER(ORAL)

Heard Ms. M Borah, the learned counsel appearing on behalf of the petitioner. I have also heard Mr. BJ Talukdar, the learned Senior Counsel, assisted by Mr. PK Medhi, the learned counsel appearing on behalf of the respondent Nos.1, 3 and 4 and Ms. N Bordoloi, the learned Standing Counsel, Revenue and Disaster Management

Department, who appears on behalf of the respondent No.2.

2. The petitioner herein has approached this Court challenging the actions on the part of the respondent authorities, more particularly the respondent No.4, in taking steps to evict the petitioner from Dag No.155 of periodic patta No.3 situated in village Kathnibari, under Naharbari Mouza, Thelamara Revenue Circle district Sonitpur.

3. This Court has perused the documents which have been enclosed to the writ petition and on perusal of the said documents, it reveals that the land in question has been stated to be 1 bigha 2 kathas 13 lechas covered by Dag No. 155 of periodic patta No.3 in village Kathnibari, under Naharbari Mouza about 200 meters inside the National Highway-15.

4. It is also the case of the petitioner that the petitioner was handed over the land by one Keshab Koch in the late 60s' and since then he has been in possession of the said land. However, the respondent No.4, had issued a notice to evict the petitioner. It is under such circumstances, the petitioner has approached this Court by filing the present writ petition.

5. The record reveals that this Court vide an order dated 18.09.2019, while issuing notice, passed an order of status- quo as regards the possession to be maintained.

6. This Court has also taken note of the affidavit-in-opposition filed by the respondent No.3 on 27.11.2020, wherein it is mentioned that

Dag No. 155 of periodic patta No.3 in village Kathnibari, under Naharbari Mouza with an area of 1 bigha 4 katha 13 lechas, is actually an annual patta land under AP No.3. It is further mentioned that the said land being an annual patta land confers no right of inheritance beyond the year of issue. Further to that, it confers no right of transfer or of sub-letting and in such circumstances, the same would be liable for cancellation.

7. It is also seen from paragraph No.10 of the said affidavit-in-opposition that the petitioner along with others were heard physically on the date fixed for hearing and their statements were recorded in writing. No documents could be produced in support of their possession at the time of hearing. It was also mentioned that as the annual patta land was transferred, the Annual Patta stood cancelled and it reverted back to the Government as a Government Khas land, and under such circumstances, Rule 18 of the Settlement Rules empowered the Circle Officer to evict the encroachers from Government Khas land.

8. This Court had duly heard the learned counsels appearing on behalf of the parties and had also perused the materials on record.

9. It is no longer *res integra* that an annual patta land continues unless cancelled by following the procedure established by law. The affidavit-in-opposition though mentions that the land in question is an annual patta land covered by Annual Patta No.3, but unless and until

the said annual patta land is not cancelled, the said patta continues.

10. There is a requirement of law that the non-renewal notice has to be issued to cancel the annual patta. Nothing has been shown before this Court by the respondents that any such steps were taken.

11. Considering the above, it is, therefore, the opinion of this Court that without a non-renewal notice being issued in respect to an annual patta land, being AP No.3, the land automatically would not vests upon the State.

12. Considering the above, the action on the part of the respondent authorities, more particularly, the Circle Officer, Thelamara Revenue Circle, Sonitpur to initiate eviction proceedings without canceling the annual patta is contrary to Rule 18 of the Settlement Rules, which only permits such action to be taken in respect to Government lands.

13. Accordingly, this Court, therefore, disposes of the instant writ petition, thereby directing the respondent authorities not to carry out any eviction under Rule 18 of the Settlement Rules unless and until the annual patta land is cancelled by initiating a non-renewal case.

14. With the above, the writ petition, accordingly, stands disposed of.

JUDGE

Comparing Assistant