

GAHC010253702023



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

Case No. : WP(C)/6511/2023

1: SMTI JAYATI DEBNATH AND ANR
W/O LATE SUBASH DEB NATH, R/O PRAGJYOTISH NAGAR,
B.G. COLONY, MALIGAON, P.S.-JALUKBARI, GUWAHATI-781011

2: DHANAJIT DEB NATH
S/O LATE SUBASH DEB NATH, R/O PRAGJYOTISH NAGAR B.G. COLONY
MALIGAON P.S.-JALUKBARI GUWAHATI-78101

VERSUS

1: THE UNION OF INDIA AND 3 ORS REPRESENTED BY THE GENERAL
MANAGER, N.F. RAILWAY, MALIGAON, GUWAHATI-781011

2: THE GENERAL MANAGER, N.F. RAILWAY MALIGAON GUWAHATI-781011

3: THE SENIOR SECTION ENGINEER, W/BB/AMJ N.F. RAILWAY AMINGAON
GUWAHATI-31

4: MUKUL KALITA, MAYOR-IN-COUNCIL, PLANNING AND DEVELOPMENT
(BUILDING PERMISSION) DISASTER MANAGEMENT AND LICENSE ETC
WARD NO. 2 GMC JALUKBARI PRAGJYOTISH NAGAR GUWAHATI-78101

Advocate for the Petitioner : MR. R DE

Advocate for the Respondent : DY.S.G.I.

– B E F O R E –
HON'BLE MR. JUSTICE MANISH CHOUDHURY
ORDER

Date : 09-11-2023

Heard Mr. R. De, learned counsel for the petitioners and Mr. H. Gupta,
learned Central Government Counsel for the respondent Nos.1, 2 & 3.

The two petitioners, who are the mother and the son, respectively, of one Late Subash Debnath, have projected that Late Late Subash Debnath was the absolute owner of three plots of land, i.e. (i) a plot of land measuring 4 Kathas 8.72 Lechas under Dag No.57 (Old) renumbered as 700 and recently marked as Dag No.676 and Patta No.14 (Old) new 234 under Village – Maligaon, Mouza – Jalukbari, District – Kamrup (M); (ii) a plot of land measuring 3 Kathas 10 Lechas out of total area of 3 Bighas 2 Kathas 10 Lechas under Dag No.62 (old) renumbered as 706 and subsequently marked as 689 and Periodic Patta No.33 initially old 15 converted to 59 and subsequently marked as 89 under Village – Maligaon, Mouza – Jalukbari, District – Kamrup (M); and (iii) a plot of land measuring 1 Katha 5 Lechas under Dag No.63 (Old), renumbered as 707 and subsequently marked as 690 under Periodic Patta No.15 converted to 116 under Village – Maligaon, Mouza – Jalukbari, District – Kamrup (M).

Mr. De has referred to the documents annexed to the writ petition to submit that all the 3(three) plots of lands are Periodic Patta lands.

The petitioners have approached this Court to assail 2(two) notices, dated 13.07.2023 (Annexure-B) & 02.11.2023 (Annexure-D), whereby the respondent authorities in the N.F. Railway have asked the petitioners to vacate from the plots of land by demolishing the structures on the premise that the petitioners are occupying lands belonging to the respondent Railway authorities.

Mr. De has submitted that there is no proper description in the said 2(two) notices about the plots of land from which the petitioners are sought to be evicted. He has further submitted that the notices are neither issued by the competent authority authorized under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 nor the same are in prescribed form. As the notices are vague in character, the notices have suffered from incurable irregularities.

Mr. Gupta, learned Central Government Counsel appearing for the

respondent Railway authorities has sought for some time to obtain instructions in the matter.

Issue notice, returnable on 08.12.2023.

As Mr. Gupta, learned Central Government Counsel, has appeared and accepted notice on behalf of the respondent Nos.1, 2 & 3, no formal notice need to be issued. However, Mr. De, learned counsel for the petitioners shall furnish 3(three) copies of the writ petition along with the annexures to Mr. Gupta during the course of the day.

The petitioners shall also take steps for service of notice upon the respondent No.4 by registered post with A/D by tomorrow (10.11.2023).

A perusal of the 2(two) notices dated 13.07.2023 (Annexure-B) & 02.11.2023 (Annexure-D) prima facie does not reflect any proper description of the land wherefrom the petitioners are sought to be evicted. Though the notices have claimed that the petitioners are occupying Railway lands, the notices have not indicated that the same are under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Having regard to the projections made on behalf of the petitioners, it is ordered that till the returnable date, the notices dated 13.07.2023 (Annexure-B) & 02.11.2023 (Annexure-D) are kept in abeyance and there shall not be any further action on the basis of the said 2(two) notices.

J U D G E

Comparing Assistant