

GAHC010140752021



2026:GAU-AS:12054

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

Case No. : WP(C)/4456/2021

DR. MAUSHUMI BAROOAH
W/O- SHRI GEORGE CHACKO, R/O- H.NO.8, SATYA SHIV RAM BORA ROAD,
CHITRACHAL, NABAGRAHA MANDIR AREA, GHY-04

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, LAND
REVENUE AND DISASTER MANAGEMENT DEPTT.,DISPUR, GHY-6

2:THE DY. COMMISSIONER
KAMRUP (M)
GHY-01

3:THE CIRCLE OFFICER
GUWAHATI REVENUE CIRCLE
GHY-01

4:REEMA GOSWAMI
W/O- LT. UGRA GOSWAMI
R/O- SATYA SHIV RAM BORA ROAD CHITRACHAL
NEAR NABAGRAHA MANDIR
GHY-0

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

For the Petitioner(s) : Mr. B.D. Das, Sr. Advocate
Mr. H.K. Sarma, Advocate

For the Respondent(s) : Mr. H. Sarma, Addl. Sr. Govt. Advocate
Ms. G. Hazarika, Standing Counsel
Mr. G. Choudhury, Advocate

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **21.08.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. B.D. Das, the learned Senior Counsel assisted by Mr. H.K. Sarma, the learned counsel appearing on behalf of the Petitioner. Ms. G. Hazarika, the learned Standing Counsel appears on behalf of the Respondent No. 1; Mr. H. Sarma, the learned Additional Senior Government Advocate appears on behalf of the Respondent Nos. 2 and 3; and Mr. G. Choudhury, the learned counsel appears on behalf of the Respondent No. 4.

PREFACE

2. The present writ petition has been filed by the Petitioner assailing the notice dated 01.09.2021 issued by the Respondent No. 3 to her husband and further seeking directions upon the Respondent Authorities for consideration of the application submitted by the Petitioner for settlement of 10.38 Lechas of land covered by Government Dag No. 732.

CONSPECTUS OF FACTS

3. From the materials on record, it would show that the Petitioner and her husband namely one Mr. George Chacko vide Deed of Sale bearing Deed No. 4062/95 registered on 25.08.1995 purchased a plot of land admeasuring 1 Katha 10 Lechas covered by Dag No. 99 of KP Patta No. 449 within Sahar Guwahati, Part 7 under Ulubari Mouza in the district of Kamrup {now Kamrup (Metro)}.

4. For the purpose of ingress and egress to the said plot of land which was purchased, there is a Government land covered by Dag No. 732 which the Petitioner along with her husband had been using. This Government land was also used by the vendors of the Petitioner since 1981 as claimed by the Petitioners. After the purchase of the land in the year 1995, the Petitioner's husband

submitted an application in the year 2009 for settlement of 10.38 Lechas of land covered by Dag No. 732. The said application still remains unconsidered, though the Petitioner's husband had submitted reminders.

5. Be that as it may, on 01.09.2021, a notice was issued by the Respondent No. 3 directing the Petitioner's husband to vacate the plot of land covered by Dag Nos. 688 and 732 of Sahar Guwahati, Part 7 under Ulubari Mouza under Rule 18(3) of the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886 within a period of 3 days.

6. The Petitioner submitted representations to the Circle Officer, Guwahati Revenue Circle as well as to the Deputy Commissioner, Kamrup (Metro) and the Chairman, Land Advisory Committee on 03.09.2021. Having not received any favourable response, the Petitioner approached this Court by filing the present writ petition.

7. The records reveal that the learned Coordinate Bench of this Court vide order dated 06.09.2021 issued notice and also passed interim directions to the effect that the Petitioner should not be evicted from Dag No. 732 at Sahar Guwahati, Part 7 under Ulubari Mouza, District Kamrup (M) in terms of the notice dated

01.09.2021 issued by the Circle Officer. The interim order has been thereupon extended from time to time.

8. This Court further takes note of that the Respondent No. 2 had filed an affidavit-in-opposition wherein it is mentioned that the land in question admeasuring 10.38 Lechas (1.39 Are) covered by Dag No. 732 is a Government land which has been encroached upon by the Petitioner by constructing a boundary wall and iron gate. It was also mentioned that the land in question had been included for road purposes vide an order dated 28.08.1989 issued by the Additional Deputy Commissioner and the subsequent direction dated 06.09.1989 issued by the Sub-Deputy Collector.

9. The Respondent No. 4 has also filed an affidavit-in-opposition wherein it is mentioned that the Petitioner had suppressed the fact that prior to the impugned notice, proceedings were initiated for their eviction from the Government land way back in 2011 vide Eviction Case No. 22/2011 initiated by the then Additional Deputy Commissioner, Kamrup (Metro) which implied that the alleged application dated 06.02.2009 submitted by the Petitioner for settlement of the Government land in Greater Guwahati was rejected. It was further mentioned that the Petitioner and her husband have narrowed down the public road by encroaching upon

the land covered by Dag No. 732 and on account of the construction of the guard wall, the Municipal Corporation is not in a position to construct the public road.

10. An affidavit-in-reply was filed by the Petitioner on 19.12.2025 wherein it was mentioned that the land in dispute admeasuring 10.38 Lechas (1.39 Are) covered by Dag No. 732 is a Government land, but the Petitioner and her husband have been using a small portion of the land for their ingress and egress to the house situated at their purchased land. It was also mentioned that though an application was submitted for settlement, the authorities have not responded and the Petitioner and her husband as well as their predecessors-in-interest have been using the said Government land for the last 55 years. Photographs of the Government land and its proximity to the Petitioner's purchased land were brought on record.

11. Another affidavit-in-reply was filed by the Petitioner against the affidavit-in-opposition filed by the Respondent No. 4 reiterating her stand in the writ petition.

SUBMISSIONS MADE BY THE LEARNED COUNSELS FOR THE PARTIES

12. Mr. B.D. Das, the learned Senior Counsel for the Petitioner submitted that Dag No. 732 which is a Government Dag admeasuring 10.38 Lechas (1.39 Are) is the land through which the Petitioner and her husband can ingress and egress to their purchased plot of land. The learned Senior Counsel further submitted that the application was filed in the year 2009 and till date, the said application has not been rejected.

13. In addition to that, the learned Senior Counsel for the Petitioner submitted that a perusal of the notice impugned in the instant proceedings would show that the said notice is contrary to the provisions of Rule 18(3) of the Settlement Rules and that too, without giving an opportunity to show cause though the Petitioner has a bona fide claim of right in respect of the said land.

14. Per contra, Mr. G. Choudhury, the learned counsel appearing on behalf of the Respondent No. 4 submitted that on account of the Petitioner's encroachment upon Dag No. 732, the existing public road had become narrow thereby effecting the public in general in using the road. In addition to that, referring to the affidavit filed by the Respondent No. 2, the learned counsel further submitted that the said Government land contained in Dag No. 732 having already been reserved for road purposes even prior to the

Petitioner purchasing their land. Therefore, the petitioner or her husband cannot be settled with the said land on the basis of their application.

15. Mr. H. Sarma, the learned Additional Senior Government Advocate for the State submitted that the land under the occupation of the Petitioner is Dag No. 732. The learned Additional Senior Government Advocate further submitted that though the notice mentioned Dag No. 688, the Petitioner is not in occupation of Dag No. 688. The learned Additional Senior Government Advocate also submitted that in view of the Assam Land Policy, 2019, the Petitioner's application as it stands cannot be considered and has to be filed through the Sewa Setu portal. The learned counsel also submitted that if the land is reserved for road purposes, the question of granting settlement do not arise.

ANALYSIS AND DETERMINATION

16. This Court had given anxious consideration to the respective submissions and has perused the application submitted by the Petitioner's husband on 05.02.2009 seeking settlement of the land covered by Dag No. 732. This Court has also taken note of the trace map which is enclosed to the writ petition as Annexure-2

(Colly).

17. From a perusal of the trace map, it is apparent that the land included in Dag No. 732 abuts the land belonging to the Petitioner which is at Dag No. 99.

18. This Court has also perused the notice issued by the Respondent No. 3 wherein the Petitioner was asked to vacate within a period of 3 days in exercise of the powers conferred under Rule 18(3) of the Settlement Rules.

19. Let this Court first take note of the notice dated 01.09.2021. The said notice is not only contrary to Rule 18(3) of the Settlement Rules, but also violates the principles of natural justice. The Petitioner who admittedly is in occupation of the land covered by Dag No. 732 and therefore without providing an opportunity to the petitioner, the said Notice could not have been issued asking the petitioner's husband to vacate the land. Under such circumstances, the notice dated 01.09.2021 cannot be sustained in law.

20. This Court also cannot turn a blind eye to the fact that merely being in occupation of Government land, there is no conferment of right to be allotted the land. At best, it may be a case wherein the Petitioner or her husband could be considered for allotment subject

to the land policy and public interest. This aspect would be apparent from the Assam Land Policy, 2019 and more particularly Clause 14.3 thereof, which is reproduced herein under:

“14.3 The State Government will not consider settlement of any Government land in Guwahati city or in other town areas under possession of individual or other persons merely on the ground that the person concerned is in occupation of such land irrespective of the period of such occupation or encroachment. It would be the policy of the State Government to consider settlement or to evict such persons as the case may be.”

21. This Court also takes note of the affidavit filed by the Respondent No. 2 wherein it is mentioned that even prior to the Petitioner purchasing the land, there were orders passed by the Additional Deputy Commissioner as well as the Sub-Deputy Collector in the year 1989 that Dag No. 732 has been reserved for road purposes.

22. This Court also takes note of the trace map. A perusal of the trace map prima facie shows that the ingress and egress to the Petitioner's purchased land is through Dag No. 732. Under such circumstances, it is the opinion of this Court that if the Government land in question cannot be settled with the Petitioner's husband, the authorities can very well provide a passage to the Petitioner for ingress and egress to the Petitioner's land inasmuch as the said is

reserved for road.

23. It is, however, relevant to mention though the Petitioner claims that the only ingress and egress to the Petitioner's land is through Dag No. 732, but the Respondent No. 4 disputes the same. It is the opinion of this Court that the Respondent Authorities would be the best Judge to decide the same.

24. Under such circumstances, it is the opinion of this Court that at the time of consideration of the Petitioner's application for settlement, the Respondents shall bear in mind the aforementioned observations.

25. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) The impugned notice dated 01.09.2021 is set aside and quashed.

(ii) Taking into account the Assam Land Policy, 2019 and the requirement of submitting an application for allotment only through the Sewa Setu portal, the Petitioner is granted liberty to submit such application seeking settlement of the land covered by Dag No. 732, provided the said land is recorded as

waste land. The said application shall be filed within a period of 30 days from the date of the present judgment.

(iii) The Respondent Authorities, more particularly the Respondent Nos. 1, 2 and 3 shall duly consider the Petitioner's application, keeping in mind Clause 14 of the Assam Land Policy, 2019 and further considering whether the land contained in Dag No. 732 is recorded as waste land.

(iv) This Court further directs that the authorities while deciding the issue of settlement shall also consider whether the Petitioner has any other access to her land.

(v) The setting aside of the notice dated 01.09.2021 shall not preclude the Respondent Authorities from taking fresh steps against the Petitioner and her husband for eviction from the land covered by Dag No. 732 by following settled principles of law laid by the learned Division Bench of this Court in the case of ***Md. Salak Uddin Vs. State of Assam & Others*** reported in ***(2024) SCC OnLine Gau 921***.

(vi) Interim order passed earlier stands vacated.

(vii) Interlocutory application(s) pending stands disposed of

on the basis of the instant judgment.

(viii) No costs.

JUDGE

Comparing Assistant