
(2025) 09 GAU CK 0460
In the Gauhati High Court
Case No : WP(C) Of 5673 Of 2021

Babul Acharjee

APPELLANT

Vs

State Of Assam And 6 Ors

RESPONDENT

Date of Decision : 18-09-2025

Acts Referred:

Citation : (2025) 09 GAU CK 0460

Hon'ble Judges : Kardak Ete, J

Bench : Single Bench

Advocate : B Baruah, S Hussain, N C Hills

Final Decision : Disposed Of

Judgement

Kardak Ete, J

1. Heard Mr. B. Baruah, learned counsel for the petitioner. Also heard Mr. C. Sarma, learned Standing Counsel, N.C Hills and Mr. N. Das, learned Government Advocate for the State respondents.

2. Challenge made in this writ petition is to the communication dated 09.02.2021 by the Secretary & Revenue Officer, N. C. Hills Autonomous Council, Haflong, whereby, the land covered under A.K. Patta No. 198, Dag No. 65 at Lower Haflong (Sherkama) is intimated to be restored in favour of Smti Nirmala Acharjee, the respondent No. 7 herein, vide Misc. Case No. 4 (H-A) 2014-15, and restoration dated 06.07.2018 in favour of the petitioner cannot be continued for issuing of patta until objection is withdrawn by the respondent No. 7 and also for a direction to the respondent authorities to cause an enquiry into the anomalies and to restore the said land in the name of the petitioner.

3. The case in brief is that the petitioner claims to be the owner-in-possession of land measuring 1 Bigha 5 Khatas covered by AK Patta No. 198, Dag No. 65 located at Kashipur, Lower Haflong, which was purchased from one late Munu Thapam of Kashipur, Lower Haflong in the year 1993. It is contended that after

completion of all the procedures including the issuance of public notice, the purchased land was transferred/mutated in the name of the petitioner and the petitioner is in continuous and peaceful possession of the land since the year 1993.

4. The petitioner contends that in the year 2013, after 20 years of transfer/mutation of the land by the seller through the Settlement & Revenue Department, he came to know that his land had been unlawfully transferred in favour of the respondent No. 7, vide Mutation Case No. 66(H) 2007-2008, dated 15.03.2013. There was no notice from the Land & Revenue Department, Haflong, nor had the petitioner given any NOC for transfer of his land in favour of the respondent No. 7. On enquiry, it came to the knowledge of the petitioner that NOC was submitted by forging his signature in collusion with the Officials of the Land Revenue Department, Haflong. The petitioner claims that behind the scene, some other family members have instigated the respondent No. 7 to grab the petitioner's property for their own interest. The petitioner has neither sold nor gifted the land to respondent No. 7, and that no NOC for transfer in the name of the respondent No. 7 was issued by him, as the land has been purchased by the petitioner.

5. The petitioner made a complaint before the appropriate authority and after consideration of the issue and the genuine claim of the petitioner, the respondent authorities has restored back the land to the petitioner, particularly, by the Secretary & Revenue Officer (W), N.C. Hills Autonomous Council, Haflong, on 06.07.2018 after 4 (four) years. It is contended that the restoration of the land in favour of the petitioner was after due enquiry and process of law.

6. Thereafter, in the year 2021, after 28 years, the respondent No. 7 has filed a complaint only to disturb the peaceful possession of the petitioner. The name of the respondent No. 7 is illegally incorporated for the patta land of the petitioner as the land belongs to the petitioner and showing the name of the respondent No. 7 in place of the petitioner is erroneous, without following the due process of correction of the entry in the records. It is contended that the petitioner has reasons to believe that the entry erroneously maintained in the records of rights in respect of the patta land of the petitioner was manipulated in the Office of the Land Settlement and Revenue Department, Haflong, by erroneously showing the name of the respondent No. 7. On such basis, the impugned communication dated 09.02.2021 was issued stating that as per the evidence produced by the respondent No. 7, actually the land was purchased in the name of respondent No. 7 in the year 1987 and accordingly, was restored in her favour vide Misc. Case No. 4(H-A) 2014-2015 and the restoration of land dated 06.07.2018, cannot be continued for issuing of patta until objection is withdrawn by the respondent no. 7.

7. Mr. Baruah, learned counsel for the petitioner submits that the land in question was transferred/mutated in favour of the petitioner in the year 1993 on the basis of petition dated 22.02.1993 as well as NOC submitted by family

members of the sellers and general notice was also given by the Land & Revenue Department giving one month time for raising objection but neither the seller nor any other person have raised any objection at that time but after 20 (Twenty) years i.e. in the year 2013, the respondent No. 7 got the land of the petitioner transferred in her name by forging the petitioner's signature without any notice to the petitioner. He submits that the petitioner neither sold nor gifted the property to the respondent No. 7. However, the petitioner on showing genuine cause in his objection petition dated 04.08.2014, the land in question was restored back in his name on 06.07.2018 after making proper inquiry and since then, the land is under the possession of the petitioner till now and he is paying the land revenue.

8. Mr. Baruah, learned counsel submits that as the land in question was transferred/mutated in the name of the petitioner in the year 1993, filing of complaint petition by the respondent No. 7 in the year 2021, after 28 years, was only for disturbing the peaceful possession of the petitioner. Therefore, the petitioner prayed before the said respondent Secretary and Revenue Officer, Haflong not to entertain any such vague application against the petitioner's right.

9. He further submits that being the authority in the aforesaid matter, the Land Revenue & Settlement Officer, NCHAC, the Revenue Officer (W) NCHAC, Haflong Lot Patwari i/c NCHAC, Haflong and the Deputy Commissioner, Dima Hasao are duty bound to see that such anomalies may not occur in the records of rights kept and maintained in their Offices under their authorities. The aforesaid anomalies or illegalities are so serious that it virtually will shock the mind of every citizens of the local Schedule Tribe (Hills) of N.C. Hills, including the petitioner and unless there is a positive connivance of the officer's of the Land & Revenue Department, Haflong and such other authorities, no one will have the courage to erroneously change the ownership rights of the patta land in favour of the respondent No. 7. Therefore, the learned counsel submits that the impugned communication dated 09.02.2021 may be set aside and direction may be issued to restore the land in question to the petitioner.

10. Mr. Sarma, learned Standing Counsel, N.C Hills and Mr. N. Das, learned Government Advocate for the respondents have submitted that the land was transferred after receiving application along with required documents from the petitioner on 28.02.2008 regarding the transfer of land in favour of his mother, namely, Nirmala Acharjee, the respondent No. 7 herein. As per the procedure, 30 (thirty) days notice was served vide Mutation Case No. 66(H-A)2007-08, dated 29.01.2013. In reference, thereof, no objection was received during the stipulated time and as such, the authorities had transferred the land in the name of the respondent No. 7, vide order dated 16.03.2013.

11. The learned counsels for the respondents have submitted that letter dated 23.03.2018 was received from Gaon Burah of Kashipur, which was endorsed by the Secretary, Kashipur Village Committee, received on 10.04.2018, clearly indicting that the Gaon Burah had also suggested that the land should be in the

name of the respondent No. 7 as she is in possession.

12. I have considered the submissions of the learned counsel for the parties and also perused the materials available on record.

13. The issue pertains to dispute relating to the transfer of land covered under A.K. Patta No. 198, Dag No. 65 at Lower Haflong (Sherkama), whereby, the Secretary & Revenue Officer, N. C. Hills Autonomous Council, Haflong, vide impugned communication dated 09.02.2021 informed the petitioner that the said land was restored in favour of the respondent No. 7 as it was purchased in her name in the year 1987 and further informed that the said land that was restored in his name vide Misc Case No. 4 (H-A) 2014-2015, dated 06.07.2018, cannot be continued for issuance of patta until objection is withdrawn by the respondent No. 7.

14. It is the specific case of the petitioner that the land in question which was purchased by him and mutated in his name in the year 1993, was cancelled and the same was mutated in the name of his mother in the year 2008. Basing on the application submitted by him, the respondent authorities had issued Notice on 06.01.2018 inviting objection to the re-transfer of the land in question and for restoration of the same in favour of the petitioner. Thereafter, vide order dated 06.07.2018, the land was restored in the name of the petitioner on payment of requisite fee and accordingly, the process had come to an end and the AK Patta Number was issued to the petitioner. However, without issuance of any notice to the petitioner and without affording any opportunity of hearing, the impugned communication dated 09.02.2021 was issued, stating that as the land actually had been purchased in the name of the respondent No. 7, it has been restored in favour of her and the restoration in favour of the petitioner cannot be continued for the issuance of patta until objection is withdrawn by the respondent No. 7.

15. Considering the contentions and having found the fact of that land being restored back to the petitioner in the year 2018 has not been dealt with by the respondent authorities, rather it is only projected that basing on an application submitted by the petitioner for transfer of the land in question in the year 2008 in favour of his mother, the same was transferred in her name, this Court had directed the learned counsel for the respondents to obtain instructions. The learned counsel for the respondents on 29.08.2025, on instruction, has submitted that the cancellation of the mutation effected in favour of the petitioner in connection with the land in question, was done basing on a complaint made by the respondent No. 7. However, prior to effecting such cancellation, no notice was issued to the petitioner and no opportunity of hearing was provided to him.

16. Considering the circumstances, as attended in the case, it would be difficult for this Court to come to a conclusion as to whether the petitioner is the actual owner of the land in question or the same was purchased in the name of respondent No. 7, for which the land was transferred and mutated in her name.

It is also seen that in the year 1993, the land in question was transferred and mutated in the name of the petitioner. Thereafter, the land was mutated in the name of the respondent No. 7 and again, it was restored back to the petitioner. Admittedly, the cancellation of the mutation effected in favour of the petitioner in connection with the land in question, was without notice and no opportunity of hearing was provided to the petitioner. At the same time, it is also seen that the land was purchased in the name of respondent No. 7 and on the application; it was transferred and mutated in her name. Thus, the issue becomes a disputed question of facts, which this Court would loathe to adjudicate by exercising the writ jurisdiction. Nevertheless, the cancellation of the mutation effected in favour of the petitioner appears to be without notice and without providing any opportunity of hearing, same may not be sustained under the law.

17. Having considered the facts and circumstances of the present case, this Court is of the view that no adjudication is warranted on the purely disputed question of facts. Thus, it would be appropriate to remand the matter back to the appropriate authority to decide the matter in accordance with law by providing opportunity to the petitioner and the respondent No. 7 as well as other stake holders.

18. Accordingly, the matter is remanded back to the respondent authorities to decide the matter by providing an opportunity to all the stake holders including the petitioner and the respondent No. 7 in accordance with applicable law, within a period of 3 (three) months from the date of receipt of the certified copy of this order.

19. Before parting, this Court expresses its pain and anguish to see the adversarial litigation initiated by the petitioner against his own mother, the son whom every mother in the world would naturally expect to be source of support and comfort, rather than the cause of such distressing proceedings.

20. Writ petition stands disposed of.