
(1949) 11 GAU CK 0004
In the Gauhati High Court
Case No : Revenue Revn.No. 35 (R) of 1949

Haripada Day

APPELLANT

Vs

Deputy Commissioner, Sibsagar

RESPONDENT

Date of Decision : 18-11-1949

Acts Referred:

Assam Settlement of Forest Coupes and Mahals by Tender System Rules, 1967 — Rule 18(1), 18(1), 18(2), 18(2)

Citation : AIR 1951 Guw 55

Hon'ble Judges : Thadani, C.J.

Bench : Single Bench

Advocate : K.R.Barman , J.C.Sen, Advocates appearing for Parties

Judgement

1. This is an appeal under 8. 147 (b), Assam Land and Revenue Regulation, against an order of the learned Deputy Commissioner, Sibsagar, dated 141949, by which he ordered the appellants to vacate the land in question within 30 days,

[2] Mr. Sen for the appellants has contended that B. 18 of the Settlement Rules framed under the Regulation has no application, because the land in question had been settle! with one Hazarimal Singh and that the appellants acquired their right, title and interest by purchase from Hazarimal or his representatives. Mr. Sen's contention might have had force if the annual patta in this case granted to Hazarimal had not been cancelled by Government. It is not disputed that the patta granted to Hazarimal has been cancelled. The position then is that the land involved is one over which no person has acquired the rights of a proprietor, landholder or settlementholder. Rule is (I) of the Settlement (Rules framed under the Regulation, therefore, "clearly applies.

[3] Mr. Sen, however, contends that assuming that R. 18 (I) applies, the appellants had been served with notice under R. 18 (2). Mr. Barman for" the Government rightly concedes that the notice in this case should have been served under R. 18 (I), and not under R. 18 (2). I agree with. The issue of notice under R. 18 (2) has no practical bearing on the question involved.

[4] Mr. Sen's main anxiety is that the appellants who, according to him, have been in occupation of the land for over 6 years, should not be deprived of it altogether. But as the learned Deputy Commissioner points out, the appellants must vacate the land first, and he presumed that they would then apply for an annual patta. The learned Deputy Commissioner, however, pointed out that if and when the appellants, after vacating the land, apply for an annual patta in respect of it, their claim cannot be preferred over the claim of indigenous people, according to Government letter NO. B8. 66/48/12, dated 2931918. I am not concerned with the letter of Government containing instructions to the Deputy Commissioners guiding them in the matter of disposing of application for settlement.

[5] Mr. San asks me to express an opinion that the claims of the appellants, even if they be nonindigenous people, should be considered by Government on the ground that they have been in possession of the land for 8 or 9 years. I presume that Government, if they are aware that these persons have been in possession for 8 or 9 years, would consider their case, but at the same time I am not prepared to recommend to Government that their case should be considered.

[6] The appeal is dismissed with no order as to costs.

V.R.B. Appeal dismissed.