
(2021) 07 GAU CK 0100

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 4407 Of 2018

Hemanta Das

APPELLANT

Vs

State Of Assam And 13 Ors

RESPONDENT

Date of Decision : 28-07-2021

Acts Referred:

Assam Land and Revenue Regulation, 1886 — Regulation 164A

Citation : (2021) 07 GAU CK 0100

Hon'ble Judges : Manish Choudhury, J

Bench : Single Bench

Advocate : R Sarma

Judgement

1. The Court proceedings have been conducted through online court proceeding services.

2. Heard Mr. R. Sarma, learned counsel for the petitioner. Also heard Mr. R. Borpujari, learned Standing Counsel, Revenue Department for

respondent no. 1; Mr. K. Gogoi, learned Additional Senior Government Advocate for respondent nos. 2, 3 and 4; and Ms. S.D. Saikia, learned counsel

for respondent nos. 5-14.

3. The petitioner is a successor-in-interest of one Late Kanchan Mati Dashya, who was a settlement holder of a plot of land in Village â?" Barjhar,

Mouza â?" Dakshin Rani, District â?" Kamrup (Metro). The petitioner is desirous of purchasing another plot of land measuring 2 Bighas and 4 Kathas

(â?"the subject-plotâ??", for easy reference), which is adjacent to the plot of land belonging to the family of the petitioner, from the respondent nos. 5-

9 and to that effect, a deed of agreement for sale was executed on 05.05.2016. When approach was made to obtain sale permission from the Circle

Officer, Azara Revenue Circle and the Deputy Commissioner, Kamrup (M), the said application has been kept pending.

4. The learned counsel for the parties have submitted that the plot of land which the petitioner wants to purchase falls in a tribal belt or tribal block. It

has further emerged from the affidavit of the respondent nos. 5-9 that they had purchased the said plot of land by way of a registered Sale Deed no.

8346/2009 dated 15.07.2009.

5. Regulation 164A of the Assam Land and Revenue Regulation, 1886 states of a bar on acquisition or by prescription in a tribal belt or a tribal block.

Section 164A of the Assam Land and Revenue Regulation, 1886 reads as under :

164A Bar of acquisition or by prescription in a belt or block - Notwithstanding anything to the contrary contained in this Act or in any

law relating to limitation, no person to whom any land is transferred in a belt or block in contravention of the provisions of this Chapter,

shall acquire any right or title in that land by any length of possession, whether adverse or not.

6. In view of the aforesaid non-obstante clause, it is necessary, for a proper adjudication of the issues raised in this writ petition, to know as to when

the State Government by notification in the Official Gazette had notified the tribal belt or block where the subject-plot of land is located and if yes, also

as to how the respondent nos. 5-9 became owners of the plots of land in a tribal belt or tribal block.

7. Mr. Borpujari and Mr. Gogoi have sought for 4 (four) weeks' time to obtain instructions of the aforesaid aspects and for listing of the case on

01.09.2021.

8. A copy of this order be furnished to Mr. Borpujari and Mr. Gogoi, as per their request.