

(2025) 10 GAU CK 1128
In the Gauhati High Court
Case No : WP(C) Of 6031 Of 2023

Konpona Hazarika And Anr

APPELLANT

Vs

State Of Assam And 6 Ors

RESPONDENT

Date of Decision : 13-10-2025

Acts Referred:

Citation : (2025) 10 GAU CK 1128

Hon'ble Judges : Sanjay Kumar Medhi, J

Bench : Single Bench

Advocate : B. Baruah, BJ Talukdar, PK Medhi, R. Borpujari

Final Decision : Disposed Of

Judgement

Sanjay Kumar Medhi, J

1. Heard Shri B. Baruah, learned counsel for the petitioners. Also heard Shri BJ Talukdar, learned Additional Senior Government Advocate, Assam assisted by Shri PK Medhi, learned counsel and Shri R. Borpujari, learned Standing Counsel, Revenue Department.

2. Considering the subject matter involved and the fact that this writ petition is pending since the year 2023, the same is taken up for disposal at the admission stage.

3. As per the facts projected, the petitioners are in the business of small tea gardens in the district of Jorhat and are in occupation of certain lands on which such cultivation is being done. They had approached this Court by filing the WP(C)/5244/1999 in which an order was passed by this Court on 11.10.1999 directing the Deputy Commissioner, Jorhat and the Secretary of Revenue Department to consider the case of the petitioners and pass appropriate orders. As per the petitioners, no such orders were passed for which they had moved a second writ petition being WP(C)/ 4710/2021 with a prayer for settlement of the land under their possession. This Court vide an order dated 27.04.2022 had

directed the petitioners to file fresh representations in terms of the earlier order dated 11.10.1999. The petitioners contend that though such representations were filed, due to some marginal delay, those have not been considered and there is a threat of their eviction.

4. Shri Baruah, learned counsel for the petitioners has submitted that the direction passed by this Court on 11.10.1999 is yet to be complied with in its true sense as till now the representations of the petitioners have not been considered. He has also submitted that as per the second direction dated 27.04.2022, though fresh representations were made, the same have not been considered and rather the petitioners are sought to be evicted from the land under their possession. It is submitted that consideration of the petitioners' representation is a matter of right which the petitioners have been deprived of.

5. Per contra, Shri Borpujari, learned Standing Counsel, Revenue Department has submitted that though there was a direction of this Court on 11.10.1999 directing the respondents to consider the representations of the petitioners, it appears that no representations were, in fact submitted by the petitioners and the petitioners took advantage of the situation. When some actions were taken by the respondent authorities for eviction, as the land in question is a VGR land, they have moved this Court with the second writ petition being WP(C)/4710/2021 in which a direction was issued to submit fresh representations and that direction was also not complied with by the petitioners. He has submitted that affidavit-in-opposition has been filed by the Department in which a communication dated 05.09.2024 has been enclosed which has been issued by the District Commissioner, Jorhat to the Department wherein the entire facts and circumstances have been stated. He has submitted that since the matter is presently sub-judiced, no action was taken by him.

6. Shri Talukdar, the learned Additional Senior Government Advocate, while endorsing the submissions of Shri Borpujari, the learned Standing Counsel, Revenue Department has submitted that there cannot be two opinions with regard to the requirement of making VGR land free from eviction. In this regard, he has placed reliance upon the case of the Hon'ble Supreme Court in Jagpal Singhs Vs. State of Punjab reported in (2011) 11 SCC 396.

7. The rival submissions have been duly considered and the materials placed before this Court including the affidavit-in-opposition have been carefully perused.

8. In the direction of this Court dated 11.10.1999, the petitioners were directed to file representation. It is however not very clear as to whether such representations were filed or considered. However, it appears that in the year 2021, the petitioners have moved to the second writ petition being WP(C)/4710/2021 in which this Court has passed an order dated 27.04.2022 directing the petitioners to submit fresh representations. The learned counsel for the petitioners has contended that fresh representations were indeed submitted

and in this regard, he has drawn the attention of this Court to the seals of acknowledgement of receipt given by the Office of the District Commissioner. A perusal of the same would reveal that there are two dates namely, 30.09.2023 and 03.10.2023 of acknowledgement of receipt. This Court has also noted that on 30.09.2023, the Additional District Commissioner had given a notice whereby a final opportunity was given to the petitioners to file their representations in terms of the direction of this Court within a further period of 7 days. It clearly appears that the representations were indeed filed within the extended period of 7 days, there is nothing on record to show that such representations were indeed considered. At the same time, this Court has noted that immediately thereafter on 09.10.2023, the present petition was moved with the apprehension that coercive action would be taken. Whether it was apt on the part of the petitioners to move this petition immediately after submission of such representation is itself questionable, without going into that aspect of the matter, it appears from the communication dated 05.09.2024 issued by the District Commissioner that because of the pendency of the present case, the representations have not been able to be considered.

9. This Court cannot also be oblivious of the submission made on behalf of the respondents that the land in question is within the VGR land and the law laid down by the Hon'ble Supreme Court in the case of Jagpal Singhs (supra) is very clear. For ready reference, the relevant observations are extracted hereinbelow-

"23. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal / unauthorized occupants of Gram Sabha / Gram Panchayat / Poramboke / Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land."

10. In view of the aforesaid facts and circumstances, this Court is of the opinion that interest of justice would be served if the District Commissioner, Jorhat is directed to consider and dispose of the representations of the petitioners which appears to have been filed on 30.09.2023. The District Commissioner is accordingly directed to consider and pass final orders on the said representations filed on 30.09.2023 by the petitioners and while doing so, the District

Commissioner would be at liberty to take the views of the Department and the settled law of the Hon'ble Supreme Court holding the field. While such consideration is made, the petitioners are also required to be given a personal hearing. Such consideration is directed to be made expeditiously and preferably within a period of 2(two) months from today. It is directed that till such consideration and speaking orders are passed, status-quo as on today be maintained.

11. The writ petition accordingly stands disposed of.