(1950) 04 GAU CK 0003

In the Gauhati High Court

Case No : Revenue Appeal No. 124 of 1949

Md. Masraj Ali and Others APPELLANT

Vs

D.C. Nowgong and Another RESPONDENT

Date of Decision : 21-04-1950

Acts Referred:
Assam Land and Revenue Regulation, 1886 — Section 147

Citation : AIR 1951 Guw 44

Hon'ble Judges : T.V. Thadani, C.J

Bench : Single Bench

Advocate : J.C. Medhi, for the Appellant; J.C. Sen, for the Respondent

Judgement

Thadani, C.J.—This is an appeal of an unusual character is appears the D.C. Nowgong, settled with the respondent the land involved in these proceedings in January, 1948. No appeal was preferred against the order of the Deputy-Commissioner settling the land with the respondent. A year later the appellants moved the Deputy Commissioner to cancel the annual patta of the respondent and keep the land open for the use of the public and to Issue a non-renewal notice to the respondent terminating his patta with effect from the following year. The learned Deputy Commissioner declined to take either action. Against this refusal of the learned Deputy Commissioner, the appellants have preferred this appeal.

2. Section 147 of the Regulation refers to an order by a Revenue Authority. The order in this case was the settlement of the annual patta on the respondent, against which no appeal was preferred. Once an annual patta has been issued, as it was done in this case, it can be either cancelled in certain circumstances or terminated by a non-renewal notice served upon the grantee-The cancellation or the termination however are matters entirely within the discretion of the Deputy Commissioner No person can compel the Deputy Commissioner to exorcise his discretion in one way rather then the other. In this case, the learned Deputy Commissioner has not thought tit to cancel the annual patta or to terminate it by

a non-renewal notice upon the respondent. This is scarcely a matter in respect of which an appeal lies u/s 147 , Assam Land and Revenue Regulation. Even if it does lie, the learned Deputy Commissioner was quite right in exercising his discretion in his own way without reference to any attempts made by any person to influence his decision.

3. The appeal is dismissed with no order as to costs.

