

GAHC010143662023



2026:GAU-AS:3655

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3857/2023

SHAHINUR RAHMAN
S/O SHAHAJAMAL SK, R/O VILL- CHINAMARI, P.O.-LAKHIGANJ, P.S.-
BILASIPARA, DIST- DHUBRI (ASSAM), PIN-783345

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GHY-06

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GHY-06

3:THE DEPUTY COMMISSIONER
DHUBRI
ASSAM

4:THE ADDITIONAL DEPUTY COMMISSIONER
DHUBRI
ASSAM

5:THE SUB-DIVISIONAL OFFICER (CIVIL)
BILASIPARA SUB-DIVISION
BILASIPARA
DIST-DHUBRI
ASSAM

6:THE CIRCLE OFFICER
BILASIPARA REVENUE CIRCLE
DIST-DHUBRI

ASSA

Advocate for the Petitioner : MR. M U MONDAL, MD. I H KHAN,MR. A W MONDAL,MR A ALIM SK,MR K ISLAM

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocates for the petitioner: Shri MU Mondal

Advocates for the respondents: Shri J. Handique, GA, Assam
Ms. N. Bordoloi, SC-Revenue

Date of hearing and Judgment : **12.03.2026**

JUDGMENT & ORDER (ORAL)

The present writ petition under Article 226 of the Constitution of India has been filed with the following prayers:

“In the premises aforesaid, it is most respectfully prayed that Your Lordship would be pleased to admit this petition call for records, issue notice upon the respondents to show cause as to why a writ of mandamus should not be issued directing the respondents authorities to give settlement to the petitioner and or restore the old patta vide Final Khatian No. 76 dated 02.02.1961 and or direct the respondent authorities to make settlement/allotment of the land measuring 2B-3K-12L under Dag No. 197 (Old)/214 (New), Khatian No. 76, village Bhalukmari under Bilasipara Revenue Circle, Bilasipara, Dist. Dhubri, Assam and/or cause or causes being shown and upon hearing the parties and on perusal of the

records, be pleased to make the rule absolute by granting complete and adequate relief to the petitioner and/or pass such other order or orders as Your Lordships may deem fit and proper.

-AND-

Pending disposal of the case the petitioner may not be evicted from the land measuring 2B- 3K- 12L under Dag No. 197 (Old)/214 (New), Khatian No. 76, village Bhalukmari under Bilasipara Revenue Circle, Bilasipara, Dist. Dhubri, Assam, in the interest of justice."

2. As per the facts projected, the petitioner is in possession of land measuring 2 Bigha, 3 Katha, 12 Lecha under Dag No. 197 (Old)/214 (New), Khatian No. 76, village Bhalukmari under Bilasipara Revenue Circle in the district of Dhubri. It is contended that the land is under his possession since the time of his great grandfather late Pashu Sk. It is the case of the petitioner that the name of the grandfather of the petitioner- Pashu Sk was recorded as a Khatiandar, under the Goalpara Tenancy Act, 1929. However, in the year 1975, the land was declared *khas* without assigning any reason. The petitioner, being the legal heir and having valid claims, had accordingly submitted an application for restoration of the old Patta on 19.06.2023. The same not having been acted upon, the instant writ petition has been filed.

3. I have heard Shri MU Mondal, learned counsel for the petitioner. I have also heard Shri J. Handique, learned Government Advocate, Assam and Ms. N. Bordoloi, learned Standing Counsel, Revenue Department.

4. Shri Mondal, learned counsel for the petitioner has submitted that it is not in dispute that the plot of land in question is under the continuous possession of the petitioner since the time of his great-grandfather. He has also highlighted

that the conversion in the year 1975 was done without assigning any reasons and therefore, his application for restoration of Patta is liable to be considered.

5. *Per contra*, Shri Handique, learned State Counsel has submitted that the projection made is wholly incorrect. He has submitted that though the records would indicate that the great-grandfather of the petitioner was in possession of the land, such possession was only as "*khatiyandar*". However, in the settlement operation made in the year 1975, the area was converted and recorded as Government *khas* land. He has submitted that such action was not put to challenge by any person and it is only after a long delay of about 50 years that the instant writ petition is filed. He submits that on the grounds of delay itself, the petition is liable to be dismissed and otherwise also, the petitioner has not been able to demonstrate a case of violation of any enforceable rights. He has also submitted that affidavit-in-opposition has been filed by the respondent no. 6 - Circle Officer, Bilasipara on 01.09.2023, which has not been rebutted by the petitioner by filing any rejoinder affidavit.

6. Ms. Bordoloi, learned Standing Counsel, Revenue Department has endorsed the submission of the learned State Counsel and has reiterated that no enforceable right has accrued to the petitioner to claim a settlement of the land.

7. Shri Mondal, learned counsel for the petitioner, in his rejoinder, has submitted that from the affidavit of the respondent no. 6, the aspect that the Pashu Sk is the predecessor of the petitioner is established. He has also relied upon an order dated 22.06.2023 passed in ***WP(C)/3625/2023 [Zafil Uddin Ahmed Vs. State of Assam and Ors.]*** and has submitted that the facts in that case are identical.

8. The rival submissions have been duly considered and the materials placed before this Court have been carefully examined.

9. The projection made in the petition, as narrated above, is that the predecessor of the petitioner, one Pashu Sk was in possession of the aforesaid plot of land. It however transpires that contrary to the projection made, Pashu SK was not the *pattadar*, but only the *khatiyandar*. It is also evident from the materials on record, including the averments made in the affidavit-in-opposition filed by the respondent no. 6 on 01.09.2023, that in the settlement operation, the land was converted as Government *khas* land and a new Dag No. was recorded. For ready reference, the relevant averments made in the said affidavit-in-opposition, are extracted hereinbelow:

“4. That with regard to the averments made in paragraph- 2 of the writ petition the deponent begs to state that land measuring 03 Bigha-02 katha-10 Lecha covered by Khatian No.76, Dag No. 197(old) at revenue village Bhalukmari (Lot No.4) under Bilasipara Revenue Circle was recorded in the name of (i) Pashu Sk, (ii) Sabu Sheikh son of Late Nimtulah Sheikh as a Khatiandar. During the time of land settlement operation, land measuring 02Bigha-03katha-12Lecha of the aforementioned plot of land changed to new Dag No.214 and recorded as Govt Khas land.”

As indicated above, there is no rebuttal affidavit filed by the petitioner.

10. The other important aspect which confronts this Court is the aspect of the gross delay in approaching this Court. The cause of action, if any, accrued in the year 1975 and this petition has been filed after about 50 years in the year 2023. Be that as it may, even from the records, it transpires that the status of the land

has been made *khas* land in the year 1975.

11. So far as the order dated 22.06.2023 passed in WP(C)/3625/2023 which is relied upon by the petitioner, this Court has noted that the facts are not identical as in that case, there was an allegation that the names of certain third parties were entered into the revenue records. However, this Court has also noted that in the said order, so far as the relief sought was concerned, the same was declined with the only observation that the petitioner can apply for settlement under the existing Land Policy of 2019.

12. Considering the above, this Court is of the opinion that no case for any interference is made out and no relief can be granted to the petitioner. The petitioner would, however, be at liberty to submit appropriate application for settlement for allotment of land as per the Land Policy of 2019 and if such application is submitted, the same is directed to be considered strictly in accordance with law.

13. The writ petition accordingly stands dismissed. Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant