

GAHC010212122023



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

Case No. : WP(C)/5501/2023

LUITPAR BUILDERS AND DEVELOPERS PVT. LTD.
REP. BY NIRUPAMA SAIKIA, HONORARY DIRECTOR, AGED ABOUT 66 YRS,

REGD. OFFICE, HOUSE NO- 7, DEBADARU PATH, DISPUR, GUWAHATI-06,
DIST- KAMRUP (M), ASSAM

VERSUS

CHAIRMAN GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
AND 2 ORS.
BHANGAGARH, GUWAHATI-05

2:CHIEF EXECUTIVE OFFICER
GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GUIWAHATI-05

3:COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
GUWAHATI
ASSAM

Advocate for the Petitioner : PETITIONER IN PERSON

Advocate for the Respondent : SC, G M D A

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

30.01.2024

1. Heard Ms. N. Saikia, the petitioner in person and Mr. P. Nayak, learned Standing Counsel, GMC & GMDA.

2. The petitioner is a private limited company represented by the petitioner in person as its Honorary Director. The case of the petitioner is that she sought for a no objection certificate and building permission for construction of a multi storied apartment building from the respondents GMDA and GMC authority. The petitioner's counsel submits that despite submitting applications praying for the necessary permission and approval for building the multi storied building, the permission and approval has not been given till date. The petitioner's counsel submits that the petitioner purchased a plot of land covered by Dag No. 16 of KP Patta No. 8 of village Khanapara NK, Mouza Beltola. The earlier Dag No. 16 has now been renumbered as 162(new). She submits that the GMDA authorities had written a letter dated 07.02.2011 informing the petitioner that the land covered by Dag No. 16(old), which is now renumbered as Dag No.162 (new), fell in the 'Residential Zone' as per the Master Plan and Zoning Regulation for Guwahati, approved on 10.07.2009. She submits that the said Master Plan and Zoning Regulation would be valid till the year 2025. She further submits that the respondent GMDA authorities have now taken a different stand, to the effect that the Dag No.16 (old)/162 (new) is in an 'Echo Friendly Zone', which implies that no building regulation for construction of a multi storied apartment building can be given. She submits that the action of the respondent authorities in changing the zone of the petitioner's land is arbitrary.

3. Mr. P. Nayak, learned Standing Counsel, GMC & GMDA, submits that as per the records, the Land Use Certificate dated 07.02.2011, certifying that the plot of land of the petitioner, that is, Dag No.16(old) as 'Residential Zone', was issued on the basis of the old Non Cadastral Map, available with the GMDA authority, obtained from the revenue authority, wherein the Dag No.16(old) has been shown as 'Residential Zone'. However, Mr. Nayak submits that on perusal of the new Cadastral Map prepared in the year 2009, which came to the possession of the GMDA authority only in the year 2014, it appears that the new Dag No.162(old 16) does not match with Dag No.16(old), as it appears in the old Non Cadastral Map. In fact, the new Dag No.162 of the new Cadastral map matches with Dag No.26 of the old Cadastral Map and the said Dag No.26 also comes under Eco Friendly zone. That is, the present Dag No.162 (new) of the new Cadastral Map, which matches with Dag No.26 of the old Cadastral Map, was under Eco Friendly Zone, even in the year 2011 when the said Land Use Certificate was issued.

4. On hearing the learned counsels for the parties, it is clear that the dispute pertains to whether the petitioner's land falls within the 'Residential Zone' or under the 'Eco Friendly Zone'. Further, there seems to be a difference in the map/records being maintained by the GMDA/GMC and the Revenue Department. The issue would have to be settled by way of a spot verification comprising of officials of the above authorities including the petitioner or its representatives.

5. There are many discrepancies with regard to the Dag numbers and Patta numbers etc. when going through the various documents in the writ petition. However, as the counsels for the parties submit that the issue raised by

the petitioner can be settled by way of a spot verification, this Court is of the view that a spot verification should be conducted by constituting a spot verification team.

6. In view of the reasons stated above and with the consent of the parties, this Court directs the Chief Executive Officer, GMDA, the Commissioner, GMC and the Circle Officer, Dispur Revenue Circle along with the petitioner or their representatives, to have a spot verification as to the location of the land covered by Dag No.16(old)/162(new) and thereafter give a report as to whether the said land, which is alleged to be in the possession of the petitioner, lies within the 'Residential Zone' or within the 'Echo Friendly Zone'.

7. The spot verification report to be made by the above team should then be given to the Chief Executive Officer, GMDA and the Commissioner, GMC, who shall process the case of the petitioner, depending upon the report submitted by the spot verification team. The spot verification including the making of the report should be concluded within a period of 15(fifteen) days from the date of receipt of a certified copy of this order.

8. The writ petition is accordingly disposed off.

JUDGE

Comparing Assistant