

BEFORE

THE HON'BLE MR JUSTICE HRISHIKESH ROY

Heard Mr. A.S. Choudhury, learned senior counsel appearing for the petitioner, Narayan Bahety, who represents the interest of one Mon Kumar Lohia as his attorney holder. The petitioner is purportedly aggrieved by the order passed on 3.6.08 in case No. 61RA(TIN)/08, whereby the appeal filed by the respondent No.2 Md Farouk Alam and others was admitted by the Assam Board of Revenue and interim order staying the impugned mutation orders of the Circle officer, Doom Dooma was passed.

The petitioners by filing a stay vacating application, sought vacation of the stay order passed on 3.6.08. But by the impugned order dated 19.12.08, the learned revenue Board after taking note of the several ongoing litigations between the parties, decided to continue with interim order passed on 3.6.08. By the said order, the Appeal No. 61RA(TIN)/08 has also been posted to be heard by Division Bench of the Board.

Assailing the interim orders passed by the learned Board of Revenue, Mr. A.S. Choudhury, learned senior counsel submits that in case No. 4 RA(Tin)/05 filed by the present petitioners, to challenge the order dated 18.12.04 passed by the Addl. Deputy Commissioner, Tinsukia in R.A. Case No. 5/04, the learned Board while issuing notice on 10.1.05, the impugned order of the A.D.C. passed on 18.12.04 was stayed till disposal of the appeal. The learned counsel also submits that by order dated 4.5.07 in Revenue Appeal Case No. 4 RA(TIN)/05, the Division Bench ordered for keeping the appeal filed by the petitioners in abeyance till disposal of Title Suit No. 48/05 filed by the respondent No.2, Md. Farouk Alam and others and pending before the learned Civil Judge, Senior Division, Tinsukia.

Giving reference to the aforesaid order dated 4.5.07 in Case No. 4 RA(TIN)/05, the learned counsel for the petitioners submits that since the earlier Appeal filed by the writ petitioners has been ordered to be kept in abeyance, till disposal of Title Suit No. 48/05, similar order keeping in abeyance the case No. 61 RA(TIN)/08, which has been filed by the respondent No.2 Md. Farouk Alam and others, should have also been ordered by the board.

It is contended that continuance of the appeal filed by the respondent No.2, while keeping in abeyance the appeal filed by the petitioner, is going to cause serious prejudice to the petitioners as the issues raised in the two appeals are closely interlinked and pertain to claim over the same parcel of land. Accordingly justifiability of the impugned orders have been challenged in the present proceeding.

I do not find from the stay vacating application filed by the petitioners seeking recall of the stay order passed on 3.6.08 that any no prayer for staying the proceeding in case No. 61 RA(TIN)/08 filed by Md. Farouk Alam and others has been made by the petitioners.

Under such circumstances, it is difficult for this court to consider the grievances raised by the petitioner for not granting of a prayer, which was not even prayed for by the petitioners, before the learned Revenue Board. It appears from the records of this case that several parties are putting forward their for a parcel of land measuring about 52 Bighas at Makum and a good number of litigations are continuing between the parties (including the present petitioners and the respondents) before different forums. Under such situation this court is of the view that the orders passed by the learned Assam Board of Revenue on 3.6.08 and 19.12.08 cannot be said to be unreasonable and unjustifiable and accordingly I find no merit in this writ petition and the impugned orders of the Board are not interfered with.

At this stage, Mr. Choudhury, learned senior counsel submits that his client would file appropriate application before the Board of Revenue for keeping in abeyance the proceedings filed by the respondent No.2 Md. Farouk Alam and others, as was ordered on 4.5.07 in the case No. 4 RA(TIN)/05 filed by the present petitioner and it is prayed that if such an application is filed by the petitioners, directions be issued for consideration of the application by the learned

Board of Revenue.

On the above prayer made by the petitioner's counsel, the petitioner is permitted to make an appropriate application in this regard. If such application is filed, the same should be considered on merit by the learned Board.

This writ petition stands disposed of.