

WP(C) 6201/2014
BEFORE
HON'BLE MR. JUSTICE HRISHIKESH ROY

The petitioner is occupying Govt. land measuring 3 lechas under Dag No.670 of village Dudhnoi Revenue Sahar (Town) Part-II (Santipur) and he challenges the eviction notice dated 18.11.2014 (Annexure-B), issued by the Circle Officer, Dudhnoi, in the Encroachment Case No.1/2014-15.

2. Since the Circle Officer is invoking the powers under Rule 18(2)/18(3) of the Settlement Rules under the Land Revenue Regulation, Mr. AK Sarma, learned counsel submits that the notice should specify as to the purpose for which the encroached land is reserved by the Government. Moreover since large number of encroachers and occupying Government land in the concerned area, the petitioner contends that eviction notice is selectively issued to him.

3. In response Mr. J. Handique, the learned Govt. Advocate submits that the petitioner is encroaching on precious Government land and since no legal right can accrue to an encroacher, he can't challenge the eviction notice. Moreover since Sub-Rule (3) of Rule 18 is also invoked by the Circle Officer, the Govt. Advocate submits that the encroacher is required to vacate within the time granted by the authorities.

4. Since the eviction notice is also challenged on the ground that reasonable opportunity was not provided for the eviction process, I direct that the impugned notice dated 18.11.2014 (Annexure-B) should be treated as a show cause notice by the encroacher and he should give his response to the said notice. The petitioner's reply should then be considered on merit by the D.C., Goalpara and to facilitate the exercise, within 7 days from today, the petitioner should furnish this order and his reply to the Circle Officer, who will arrange for consideration of the petitioner's response by the D.C. by a speaking order. The impugned ejectment process will therefore abide by the speaking order of the D.C. But until the speaking order is passed, the impugned ejectment notice dated 18.11.2014 (Annexure-B) should not be enforced to oust the petitioner from the Govt. land. It is ordered accordingly.

5. With the above direction, the case is disposed of without any order on costs.