



GAHC010179142020

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

Case No. : WP(C)/5299/2020

MUSLIMA BEGUM LASKAR
W/O FAIJUR RAHMAN LASKAR
RESIDENT OF VILLAGE DAKHIN KRISHNAPUR, PO AND PS SILCHAR
SADAR. DIST CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF HOME, DISPUR GUWAHATI 6

2:THE PRESIDING OFFICER
SPECIAL TRIBUNAL
DISTRICT AND SESSION JUDGE
CACHAR
SILCHA

Advocate for the Petitioner : MR M J QUADIR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

Date : 07-01-2021

JUDGMENT & ORDER (ORAL)

Heard Mr. MJ Qadir, learned counsel for the petitioner and Ms. M Bhattacharjee, learned counsel for the respondent No.1.

2. By this writ petition, the petitioner brings it to the notice of the Court that she is aggrieved by the slow progress of the proceeding in the Special Tribunal, Cachar in LG Case



No.26/2019, which had been initiated u/s 4 and 5 of the Assam Land Grabbing Act, 2010. The Special Tribunal as provided in Section 7 of the Act of 2010 is for the purpose of conducting enquiry into any alleged act of land grabbing and trial of cases in respect of ownership and title to or lawful possession of the land grabbed and that the Court of District and Sessions Judge having jurisdiction over the area shall be the Special Tribunal for the purpose of the Act. Section 8(1) of the Act of 2010 provides that every Special Tribunal shall have power to try all cases arising out of any alleged act of land grabbing, or with respect to the ownership and title to, or lawful possession of the land grabbed whether before or after the commencement of this Act. Section 8(6) of the Act of 2010 further provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973 (in short CrPC), it shall also be lawful for the Special Tribunal to frame charge and try all offences punishable under the Act, if in the opinion of the Special Tribunal it is so necessary after delivery of its decision and order in the Civil liability where prima-facie it appears to the Special Tribunal that a particular person or a group of persons are responsible for commission of an offence of land grabbing punishable under the Act. Section 9 of the Act of 2010 provides that save what is expressly provided in the Act, the provisions of the Code of Civil Procedure, 1973 (in short CPC) and the Code of Criminal Procedure, 1973 so far as they are not inconsistent with the provisions of the Act, shall apply to the proceedings before the Special Tribunal mutatis mutandis and for the purpose of the provisions of the Act, the Special Tribunal shall be deemed and shall have all the powers of a Civil Court and a Court of Sessions. Section 9 makes it explicit that the Special Tribunal is a Judicial forum and it exercises its powers in respect of the offences under the Act of 2010. Further as both civil and criminal jurisdiction has been vested on the Special Tribunal, in a situation where it can try and arrive at its conclusion in respect of any civil liability as well as criminal charge for the offences under the Act, both the procedure under the CPC as well as the procedure under the CrPC are required to be followed depending on the nature of the dispute that is being decided.

3. From the said point of view, if any of the litigant before the Special Tribunal is aggrieved by any slow progress of the Tribunal, the same would be of the nature when a litigant is aggrieved by any slow progress of the Court either in a criminal Court or in a civil Court. From the said point of view, we are unable to accept the maintainability of this writ



petition under Article 226 of the Constitution of India seeking a direction to the Special Tribunal for an expeditious disposal of the matter raised before the Special Tribunal by the writ petitioner herein, where the Presiding Officer of the Special Tribunal has been arrayed as respondent No.2. However, the Special Tribunal being a Judicial forum exercising its jurisdiction both under the CPC as well as CrPC, if a litigant is aggrieved by slow progress of a case, the appropriate remedy would be under Article 227 of the Constitution of India by assailing any such order of the Special Tribunal which may according to the litigant be a reason for any slow progress of the matter.

4. In view of the above, Mr. MJ Qadir, learned counsel for the petitioner seeks to withdraw this writ petition with liberty to file appropriate petition as may be advisable under the law.

5. In view of the above, the writ petition stands closed on being withdrawn. Liberty is granted to the petitioner to avail any other remedy as may be available under the law.

JUDGE

Comparing Assistant