

Assam Schedule VII Form No.143

DISTRICT – JORHAT

COURT OF : MUNSIFF NO.1, JORHAT

PRESENT: MRS. ACHMA RAHMAN, MUNSIFF NO.1, JORHAT

CASE NO.: Misc.(J) 34/2013

Pranab Kr. Saha & anr. –Vs- Pabon Hazarika & anr.

| Sl. No. | Date of order or proceeding | Order or other proceeding | Signature of court | Office action taken on order with date and ex-dated signature of pleaders or parties when necessary |
|---------|-----------------------------|--|--------------------|---|
| 1 | 2 | 3 | 4 | 5 |
| | 24-07-2013 | <p>Instant Misc. (J) case is registered in view of petition No.1381/13, filed U/O -39 Rule 1 & 2 of CPC with a prayer to restrain the O.Ps/ defendants not to undertake illegal construction activities over the suit land till disposal of the suit.</p> <p>Petitioner's case in brief is that they have filed a suit against the O.Ps. through Power of Attorney holder for declaration of right, title and interest in respect of the suit land. It is stated that the petitioners are the absolute owners of an area of land measuring 1 Katha 2 ½ lochas out of which land measuring 14 lochas is covered by Dag No.292 (old) 21 (new) of P.P. No.145 (old) 220 (new) of Kumar Koibarta Gaon under Garmur Mouza, Jorhat and land measuring 8 ½ lochas is covered by Dag No.279 and 1031 of Old Annual Patta No.68 of Kumar Koibarta Gaon as specifically described in the schedule of the plaint. The O.P./defendants on 24/4/13 illegally trespassed into the suit land and disposes the petitioner/plaintiff and has been constructing a katcha house over the suit land and inspite of objection raised by the petitioners they have not paid any heed.</p> <p>O.Ps. filed written objection denying and challenging inter alia the claims of the petitioner and further stated that Motilal Saha, father and the predecessor in interest of the petitioner expired about 10 years ago and during his life time no mutation order was passed in his favour and that Motilal Saha handed over the possession of the suit land in favour of Badan Hazarika, deceased father of O.P. No.1 in the year 1970.</p> | | |

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| | | <p>The said Badan Hazarika was continuously in possession over the suit land till his death in the year 2009 and after his death, the O.P. No.1, without any interruption remained in possession of the suit land. That the Circle Officer, Jorhat East Revenue Circle issued possession certificate in favour of the deceased father of the petitioner taking into consideration of the factum of his continuous possession over the suit land and hence, prayer has been made to dismiss the petition.</p> <p>Perused the plaint, petition, written objection and available materials on record.</p> <p>Perusal of Jamabandi reveals that predecessor in interest of the present plaintiff/petitioner was recorded pattadar in respect of land measuring 14 lecha, covered by P.P. No.220, Dag No 21. Jamabandi further reveals that after his death the name of present petitioners were recorded by way of inheritance in respect of 14 lochas of land covered by Dag No.21 of P.P. No.220 but pleadings as well the documents available on record reveals that at present O.Ps are in possession the suit land and as such I am of the considered opinion that there is a prima-facie case to go for trial.</p> <p>So far as balance of convenience is concerned ,it prima facie reveals from the materials that father of O.P No 1 was in possession of the suit land since the year 1970, thereafter O.P no 1. has been in possession of the suit land. The Circle Officer, Jorhat East Circle vide its certificate dtd 17.02.06 has also declared the possession of father of O.P no 1 in respect of suit land. In view of the prevailing fact situation I am of the considered opinion that until and unless O.Ps are evicted in due course, they have right to use and enjoy the</p> | | |

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| | | <p>land and such, I am of the considered opinion that allowance of the petition would place them in more inconvenient stage than that of the petitioner and may also cause irreparable loss and injury which can't becompensated in terms of money.</p> <p>In view of the above facts and circumstances and also considering the matter in its entirety I deem it fit and proper to reject the injunction petition.</p> <p>Accordingly the injunction petition stands rejected.</p> <p>Misc.(J) case is accordingly disposed off on contest.</p> | | |

**Munsiff No.1,
Jorhat**