AIR 1995 Guw 46

Gauhati High Court

Case No: Civil Rule No. 1500 of 1992

Bishwanath Boro		APPELLANT
	Vs	
State of Assam and Others		RESPONDENT

Date of Decision: March 18, 1994

Acts Referred:
Assam Land and Revenue Regulation, 1886 â€" Rule 21

Citation: AIR 1995 Guw 46

Hon'ble Judges: J.N. Sharma, J

Bench: Single Bench

Advocate: P.J. Deka and R.D. Mazumdar, for the Appellant; B. Choudhury, D1.G.A., Assam, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

J.N. Sarma, J.
The admitted fact is that the K.P. Patta No. 131 with Dag No. 291 for an area of 4 Bs. 1 K. stands in the name of the

petitioner and the petitioner is the landlord in respect of this land. The petitioner on the land has 68 Teak (Sagoon) Trees.

2. The Rule 21 of the Rules under the Assam Land and Revenue Regulation, 1886, provides for royalty on timber. Rule 21(d) provides as follows:

Notwithstanding anything contained in the preceding clauses, trees which were planted, or began to grow, on the land during the pendency of a

lease shall be exempted from all payment of royalty even if sold, bartered, mortgaged, given or otherwise transferred or removed for transfer.

When land has been settled continuously for twenty years, all trees standing thereon shall be presumed to have been planted, or to have began to

grow, during the pendency of the lease"".

3. The petitioner contends that these tree''s were planted by him and they grew on the land during the pendency of the lease and this being the

position, the petitioner shall be exempted from payment of all royalty even if sold, bartered, mortgaged, given or otherwise transferred or removed

or transferred.

4. In the instant case the land belongs to the petitioner is also evident from the Annexure ''D'' to the writ application. As the land belongs to the

petitioner and as trees were grown by the petitioner, the petitioner is not liable to pay any royalty. Accordingly, this writ application is allowed

declaring that by virtue of Rule 21(d), the petitioner is not bound to pay any royalty on the teak tree (Sagoon Tree) standing on this land.

5. I have heard Shri P. J. Deka, Learned Counsel for the petitioner and Shri B. Choudhury, Learned Addl. Senior Govt. Advocate.

6. Shri Choudhury submits that this land was claimed to be the forest reserved land and that is why the Forest Department had a right to claim

royalty on the trees. As found by me earlier that this is the patta land of petitioner and the petitioner claimed to have grown the trees by himself, this

argument of Shri Choudhury is not tenable.

7. This disposes of the writ application. Order accordingly.