

GAHC010024562020



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

Case No. : WP(C)/683/2020

ON THE DEATH OF BASANTA DAS, HIS LEGAL HEIR, NILIMA DAS
S/O LT. KANTHI RAM R/O BORIPARA, MALIGAON CHARIALI, WARD NO. 3,
P.S. JALUKBARI, DIST. KAMRUP (M), ASSAM, PIN 781012

VERSUS

THE STATE OF ASSAM AND 13 ORS.
REP .BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE DEPTT. DISPUR, GUWAHATI-781006

2:THE DEPUTY COMMISSIONER
KAMRUP (M)
DIST. KAMRUP (M)
ASSAM
PIN-781001

3:THE CIRCLE OFFICER
GUWAHATI REVENUE CIRCLE
GUWAHATI-781001
DIST. KAMRUP (M)
ASSAM

4:KANDARPA SARMA
S/O LATE KHAGENDRA NATH SARMA
R/O- KAMAKHYA HILLS
P.O - KAMAKHYA
P.S -JALUKBARI
GUWAHATI
DIST.- KAMRUP (M)
ASSAM
PIN- 781010.

5:MONORAMA DEVI
W/O- LATE JIBANATH SARMA

D/O LATE KHAGENDRA NATH SARMA
R/O- MALIGAON CHARIALI
NEAR OVER BRIDGE
P.O - PANDU
P.S- JALUKBARI
GUWAHATI
DIST.- KAMRUP (M)
ASSAM
PIN- 781012.

6:PRADIP KUMAR SARMA
S/O LATE KHAGENDRA NATH SARMA
R/O- MALIGAON CHARIALI
NEAR OVER BRIDGE
P.O PANDU
P.S- JALUKBARI
GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN- 781012.

7:GIRIBALA DEVI
W/O LATE HEMANDRA NATH SARMA
R/O - NILACHALPUR
MALIGAON (NEAR LCB COLLEGE)
P.O -N. F RAILWAY H. Q
P.S -JALUKBARI
GUWAHATI
DIST. - KAMRUP (M)
ASSAM
PIN 781011.

8:PARAG KUSUM DEVI
W/O SRI PABAN SARMA
R/O- A.T ROAD
NAGAON
P.O AND P.S -NAGAON
DIST.- NAGAON
ASSAM
PIN- 782001.

9:HIMANI DEVI
D/O SRI HAMENDRA NATH SARMA
R/O- NILACHALPUR
MALIGAON (NEAR LCB COLLEGE)
P.O- N. F RAILWAY H.Q
P.S- JALUKBARI
GUWAHATI

DIST. - KAMRUP (M)
ASSAM
PIN- 781011.

10:ALAKA DEVI
D/O SRI HAMENDRA NATH SARMA
R/O- NILACHALPUR
MALIGAON (NEAR LCB COLLEGE)
P.O- N. F RAILWAY H. Q.
P.S- JALUKBARI
GUWAHATI
DIST. - KAMRUP (M)
ASSAM
PIN- 781011.

11:RAJIB SARMA
S/O ASHOK NATH SARMA
R/O- MALIGAON CHARIALI
NEAR OVER BRIDGE
P.O- PNADU
P.S -JALUKBARI
GUWAHATI
DIST.- KAMRUP (M)
ASSAM
PIN- 781012.

12:RAJU SARMA
S/O ASHOK NATH SARMA
R/O- MALIGAON CHARIALI
NEAR OVER BRIDGE
P.O- PANDU
P.S- JALUKBARI
GUWAHATI
DIST.- KAMRUP (M)
ASSAM
PIN- 781012.

13:M/S SHREEMOYEE CONSTRUCTION
REP. BY ITS PROPRIETOR SRI RATUL PRASAD SARMA
LOCATED NEAR KAMAKHYA MANDIR
P.O- KAMAKHYA
P.S- JALUKBARI
GUWAHATI
DIST. - KAMRUP (M)
ASSAM
PIN- 781010.

14:RATUL PRASAD SARMA

S/O HIRANYA PRASAD SARMA
R/O- KAMAKHYA HILL
P.O- KAMAKHYA
P.S- JALUKBARI
GUWAHATI
DIST.- KAMRUP (M)
ASSAM
PIN- 781010

For the Petitioner(s) : Mr. N. K. Kalita, Advocate

For the Respondent(s) : Mr. H. Sarma, Government Advocate
: Mr. M. K. Boro, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 20.11.2023

1. The instant writ petition has been filed challenging the impugned eviction notice dated 27.01.2020 issued by the Respondent No.3 and further seeking a direction upon the Respondent Authorities to dispose of the representation dated 24.07.2017 as well as the application for settlement dated 30.03.2019 and the representation dated 03.02.2020.

2. This Court has duly perused the materials on record as well as the impugned notice dated 27.01.2020 whereby it was alleged that the Petitioner is in occupation of Government land covered by Dag No.386 (new)/411(old), village Maligaon under Jalukbari Mouza. This Court has also taken note of the affidavit filed by the Respondent No.2 wherein it has been mentioned that the land measuring 10.59 Are has been recorded as Government Dag No.411 (old)/386 (new), Maligaon under Jalukbari Mouza and the said land is recorded as Alibandh, PWD.

3. It was further mentioned that during the verification, it was seen that the Petitioner was residing in a part of the aforesaid Dag No. 386 in a tin roofed constructed thereupon. Further to that the Petitioner had also rented two rooms where the timber shops were running. Though there has been an allegation to that effect that the eviction proceedings have been initiated at the behest of a builder namely Ratul Prasad Sharma but the same has been duly denied in the affidavit filed by the Respondent No.2. This Court has also taken note of application which was filed by the original Petitioner for settlement of the said land under their possession and also that the said application was not disposed of.

4. It is further seen that upon the death of the original Petitioner, the substituted Petitioner i.e. the wife of the original Petitioner had also submitted an application in terms with Basundhara 2.0 Scheme and in that regard, the said application was duly acknowledged as far back as on 22.03.2023 and in the acknowledgement, it was mentioned that as to whether the application would be accepted or not shall be duly intimated within a period of 300 days.

5. This Court upon taking into account that there is an application filed by the substituted Petitioner seeking settlement of the land from where the original Petitioner was issued the eviction notice is of the opinion that till the application bearing Acknowledgment No.RTPS /SKCSL/2023/1248177 dated 22.03.2023 is not disposed of, the Petitioner should not be evicted from the said land.

6. Accordingly, this Court therefore disposes of the instant writ petition thereby directing the Respondent Authorities to duly consider as to whether the Petitioner would be entitled to the settlement of the land for which the application has been duly filed by the substituted Petitioner as per the Land Policy of 2019 and if it is in the opinion of the Respondent Authorities that the

Petitioner is not entitled to the settlement, then the Petitioner be duly informed as the reasons for the same. It is only upon due intimation to the Petitioner, the Respondent Authorities shall be at liberty to take appropriate action for eviction of the Petitioner.

7. With above observation and directions, the instant writ petition stands disposed of. The interim order ceases to operate henceforth in view of the observations made in Paragraph No.5 hereinabove.

8. Before concluding, this Court however finds it relevant to take note of the submission of the learned counsel appearing on behalf of the Private Respondents who submits that the Petitioner is in occupation over the Government land which is specifically reserved for PWD Road and have duly affected the ingress and egress of the Private Respondents. It is the opinion of this Court that the said aspect of the matter be duly taken note of by the Respondent Authorities while considering the application of the Petitioner for settlement.

9. A copy of the instant order be served upon Mr. H. Sarma, the learned Government Advocate for due compliance.

JUDGE

Comparing Assistant