

GAHC010035532023



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

Case No. : WP(C)/946/2023

AFAS ALI AND 7 ORS.
S/O- YUSUF ALI,
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE,
P.O- KOTAMONI,
P.S- BAZARICHERRA,
DIST- KARIMGANJ, ASSAM

2: ACHAR ALI
S/O- YUSUF ALI
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE
P.O- KOTAMONI
P.S- BAZARICHERRA
DIST- KARIMGANJ
ASSAM

3: MD. HUSEN AHMED
S/O- YUSUF ALI
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE
P.O- KOTAMONI
P.S- BAZARICHERRA
DIST- KARIMGANJ
ASSAM

4: ABUL KALAM AZAD
S/O- LATE JAHIR ALI
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE
P.O- KOTAMONI
P.S- BAZARICHERRA
DIST- KARIMGANJ
ASSAM

5: ABDUL SUKKUR
S/O- LATE JAHIR ALI
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI
P.S- BAZARICHERRA
DIST- KARIMGANJ
ASSAM

6: ABUL MONAF
S/O- LATE JAHIR ALI
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE
P.O- KOTAMONI
P.S- BAZARICHERRA
DIST- KARIMGANJ
ASSAM

7: ABDUL SATTAR
S/O- LATE JAHIR ALI
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE
P.O- KOTAMONI
P.S- BAZARICHERRA
DIST- KARIMGANJ
ASSAM

8: FAKHAR UDDIN
S/O- LATE ABDUR RAHIM
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE
P.O- KOTAMONI
P.S- BAZARICHERRA
DIST- KARIMGANJ
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMMISSIONER AND SECRETARY OF THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPARTMENT, A BLOCK, 3RD FLOOR,
JANATA BHAWAN,
DISPUR, GUWAHATI, ASSAM-06.

2: THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
AND HEAD OF FOREST FORCE
ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
ARANYA BHAWAN
PANJABARI ROAD
GUWAHATI
ASSAM
PIN- 781037.

3: THE DIVISIONAL FOREST OFFICER

LONGAI FOREST DIVISION
KARIMGANJ DIVISION
KARNAMADHU PART II
KARIMGANJ
ASSAM

4:THE FOREST BEAT OFFICER
LONGAI BEAT
KARIMGANJ
ASSAM

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 22-02-2023

Heard Mr. S. Borthakur, learned counsel for the petitioners; Mr. D. Gogoi, learned Standing Counsel, Environment and Forest Department for all the respondents.

2. The petitioners, 8 [eight] in nos., joined together in the instant writ petition filed under Article 226 of the Constitution of India claiming that their predecessors-in-interest were allotted lands inside N/S Solamona Forest Village under Longai Reserve Forest, District – Karimganj. After the deaths of their predecessors-in-interest, the petitioners as successors-in-interest are residing in the parcels of land allotted in favour of their predecessors-in-interest in N/S Solamona Forest Village till date. The petitioners are aggrieved by a notice dated 07.07.2022, served upon them by the respondent no. 4, whereby the respondent 4 has intimated that the petitioners had illegally entered and occupied lands inside the areas of Longai Forest Reserve and they are liable to be proceeded for eviction under the provisions of the Assam Forest Regulation, 1891. The petitioners, by the said notice, have been directed to produce documents in support of ownership of their respective lands inside the forest village within a stipulated time period or else, they would be evicted therefrom, within a stipulated time period. Subsequently on 18.01.2023, another notice of similar nature has been issued by

the respondent no. 4.

3. On the previous date of listing, that is, on 20.02.2023, Mr. P.N. Goswami, learned Additional Advocate General, Assam had placed a Communication bearing no. KJ[T]/Eviction/2023/925 dated 19.02.2023 of the respondent no. 3, addressed to him. As per the said Communication of the respondent no. 3, an eviction drive is being carried out in Longai Reserve Forest areas under Lowairpoa Range, Karimganj Forest Division and during the eviction drive, it has been noticed that there are encroachments of forest areas both by encroachers as well as by some of the forest villagers beyond their allocated areas and such areas have been successfully cleared. The Communication has further mentioned that the forest villagers occupying additional areas beyond their allocated areas were evicted out of the excess areas occupied by them and a warning has been issued to such forest villagers that any illegal venture to occupy additional forest areas beyond their areas of allotments would result in cancellation of rights granted as registered forest villagers.

4. Mr. Borthakur, learned counsel for the petitioners has submitted that as successors-in-interest of the persons who were allocated lands inside the N/S Solamona Forest Village under Longai Forest Reserve, petitioners have a right to continue in such allocated lands. Mr. Gogoi, learned Standing Counsel, Environment and Forest Department has, however, raised an issue regarding absence of hereditary rights of the petitioners to continue as forest villagers in the lands allocated in the name of the petitioners' predecessors-in-interest. It is submitted by him that the said issue is a subject-matter of a writ petition, W.P.[C] no. 4775/2022, which is pending as on date. Mr. Borthakur, learned counsel for the petitioners has submitted that since the issue regarding hereditary rights of the petitioners as successors of the persons who were allocated lands in forest village, is yet to be finalized, the petitioners as successors-in-interest of the persons who were allocated lands inside the forest village, should not be disturbed in so far as the parcels of land allocated in favour of their predecessors-in-interest are concerned. He has submitted that as on date, the petitioners have not been evicted out of such parcels of land allocated in the name of their predecessors-in-interest.

5. Mr. Gogoi, learned Standing Counsel, Environment and Forest Department has submitted that the eviction drive which is continuing, will not be carried out in respect of parcels of land which were earlier allocated inside N/S Solamona Forest Village under Longai Forest Reserve. But the eviction drive will be carried out in respect of those parcels of land if any of the villagers are found encroaching beyond their allocated parcels of land. Mr. Gogoi has further submitted that the writ petition can be disposed of at this stage, taking into account the above observations.

6. Having considered the submissions of the learned counsel for the parties, this Court is of the considered view that there is no necessity to keep the writ petition pending in view of the broad consensus arrived at by the learned counsel for the parties in the manner noted above. The writ petition is accordingly disposed of with the direction that no eviction drive consequent to the notice dated 07.07.2022 and the notice dated 18.01.2023 issued by the respondent no. 4 shall be carried out in respect of the parcels of land which were allocated earlier inside the N/S Solamona Forest Village under Longai Forest Reserve in the name of the predecessors-in-interest of the petitioners, with the further observation that this Court has not made any observation with regard to any eviction drive carried out beyond such parcels of land allocated inside the Longai Reserve Forest.

7. It is further observed that any further eviction to be carried will be subject to the outcome of the decision in the pending writ petition, W.P.[C] no. 4775/2022.

8. This order disposes of the writ petition.

9. A copy of the Communication bearing no. KJ[T]/Eviction/2023/925 dated 19.02.2023 is kept as part of the case record and the same be marked as 'X'.

JUDGE

Comparing Assistant