

GAHC010049102023



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

Case No. : WP(C)/1236/2023

ALA UDDIN AND 2 ORS
S/O- ABDUS SHUKKUR, R/O- VILL- LAMAJUAR, P.O. LAMAJUAR, DIST.-
KARIMGANJ, ASSAM

2: RUHUL AMIN
S/O- NAZRUL ISLAM
R/O- VILL- LAMAJUAR
P.O. LAMAJUAR
DIST.- KARIMGANJ
ASSAM

3: KAZI ANWAR HUSSAIN
S/O- ABDUR RAKIB
R/O- VILL- KAZIRGRAM
P.O. BHANGA BAZAR
DIST.- KARIMGANJ
ASSA

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE SECY. TO THE GOVT. OF ASSAM, DEPTT. OF PANCHAYAT AND
RURAL DEVELOPMENT, DISPUR, GHY-6

2: THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
GUWAHATI

3: THE CHIEF EXECUTIVE OFFICER
KARIMGANJ ZILLA PARISHAD
KARIMGANJ

4:THE EXECUTIVE OFFICER
BADARPUR ANCHALIK PANCHAYAT
P.O. MAHAKAL
DIST.- KARIMGANJ
ASSAM
PIN- 788701

5:THE PRESIDENT
BADARPUR ANCHALIK PANCHAYAT
P.O. MAHAKAL
DIST.- KARIMGANJ
ASSAM
PIN- 78870

Advocate for the Petitioner : MR. A B T HAQUE

Advocate for the Respondent : SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

09-03-2023

Heard Shri S. K. Talukdar, learned counsel for the petitioners. Also heard Shri S. Dutta, learned Standing Counsel, P&RD Department who appears for respondent Nos. 1, 2, 3 and 4.

Considering the order which is proposed to be passed, issuance of notice upon the respondent No. 5 is deemed not necessary.

The petitioners who are three in numbers were allotted three rooms of the Super Market at Bhanga Bazar Road under the Badarpur Anchalik Panchayat in the district of Karimganj which were on 24.01.2006, 20.09.2018 and 29.07.2022. It is the case of the petitioner that subsequent to such allotment, they had made investment and had developed the rooms. The petitioners are however aggrieved by a notice dated 20.02.2023 issued by the President, Badarpur Anchalik Panchayat directing the petitioners to vacate the allotted rooms on or before 15.03.2023 on the ground that a three storied building would be constructed. The petitioners claimed to have submitted a representation praying for reasonable time to vacate and also to make alternative arrangement which however has not been acted upon. It is also the case of the petitioners that the rent has been paid by the petitioners upto June

2023.

Shri Talukdar, the learned counsel for the petitioners has fairly submitted that the petitioners are not against the proposed constructions of a three storied building. However, their concern is that if they are required to vacate before entering into any memorandum of understanding, not only prejudice would be caused to them, their scope of re-allotment would also become uncertain.

By drawing the attention of this Court to the notice, the learned counsel has submitted that the petitioners are required to vacate their respective rooms by 15.03.2023 and on 10.03.2023, they should approach the Badarpur Anchalik Panchayat Office to enter/execute a memorandum of understanding for re-allotment.

Shri S. Dutta, learned Standing Counsel, P&RD however submits that there is no infirmity or illegality in the said notice. Shri Dutta however fairly submits that the time granted to vacate may not be reasonable and as such a reasonable time frame may be given by this Court.

After hearing the parties and on perusal of the records, this Court is of the opinion that no fruitful purpose would be served by keeping this writ petition pending. Accordingly, the same is disposed of on the motion stage itself by holding that the period given to the petitioners to vacate the rooms be extended to that of 1 month from today. For the sake of clarity the deadline is fixed on 09.04.2023. It is however directed that prior to the said date and preferably within a period of 2 (two) weeks from today i.e. within 24.03.2023, the Memorandum of Understanding, as revealed in the notice dated 20.02.2023 be executed in which there would be a condition to re-allot suitable room to the petitioners upon completion of the construction of the new three storied building.

It is further directed that if for any reason the demolition of the existing structure is delayed or deferred, no third party rights may be created in respect of the rooms belonging to the petitioners.

Writ petition stands disposed of.

JUDGE

Comparing Assistant