

GAHC010058332023



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

Case No. : WP(C)/1558/2023

ALL ASSAM KOCH RAJBONGSHI SANMILANI AND ANR
BONGAIGAON DISTRICT, COMMITTEE AT BONGAIGAON, REP. BY ITS
PRESIDENT, SAMBHU CHARAN BARMAN, R/O- MAIN-GATE, BRPL,
DHALIGAON, DIST.- CHIRANG, ASSAM

2: SAMBHU CHARAN BARMAN
WORKING PRESIDENT OF ALL ASSAM KOCH-RAJBONGSHI SANMILANI
S/O- LATE SURENDRA CHANDRA BARMAN
R/O- DHALIGAON
BRPL-MAIN GATE
P.O. AND P.S. DHALIGAON
DIST.- CHIRANG
BTAD
ASSAM
PIN- 78338

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPTT., DISPUR, GHY-6

2:THE COMMISSIONER
LOWER ASSAM DIVISION
PANBAZAR
GHY-01

3:THE DEPUTY COMMISSIONER
BONGAIGAON DISTRICT AT BONGAIGAON ASSAM
PIN- 783380

4:THE CIRCLE OFFICER
BONGAIGAON REVENUE CIRCLE
BONGAIGAON

ASSAM
PIN- 783380

5:SHRI DEB KANTA RAY
VILL- NAYAPARA
PART-I
P.O. CHAPRAKATA
P.S. AND DIST.- BONGAIGAON
PIN- 783380

6:SAMESHWAR SARANIA
VILL- CHAPRAKATA (PAHARTOLI)
P.O. CHAPRAKATA
P.S. AND DIST.- BONGAIGAON
PIN- 783380

7:SHRI MAHENDRA BARMAN
VILL- CHAPRAKATA
PART-II
P.O. CHAPRAKATA
P.S. AND DIST.- BONGAIGAON
PIN- 783380

8:PANKAJ SARKAR
VILL- NAYAPARA
PART-II
P.O. CHAPRAKATA
P.S. AND DIST.- BONGAIGAON
PIN- 783380

9:PRABHAT BARMAN
VILL- POPRAGAON (KOREBARI)
P.O. POPRAGAON
P.S. AND DIST.- BONGAIGAON
PIN- 78338

For the petitioner (s) : Mr. M. U. Mahmud, Advocate

For the respondent (s) : Mr. H. Bezbaruah, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

07.09.2023

The instant writ petition has been filed by the petitioners seeking a direction upon the private respondents to restrain them from disturbing in the ongoing construction of the Narnarayan Chilarai Kalakhetra as well as the pond within the Kalakhetra area.

2. It reveals from the perusal of the writ petition that an allotment of a plot of land was made for construction of Narnarayan Chilarai Kalakhetra at Chaprakata, Part-I measuring 12 bighas 2 kathas 15 lechas covered by Dag No.153 situated at village Chaprakata, Part-I under Bongaigaon Revenue Circle in the district of Bongaigaon. It is the case of the petitioner that the petitioner No.2 who is a Class-IA category contractor was issued work order for construction of the work. However, the private respondent Nos.5 to 9 as claimed by the petitioners illegally entered into construction site on 08.11.2022 and asked the petitioners to stop the construction of Kalakhetra work having no authority. Under such circumstances, the petitioners had lodged an FIR on 14.02.2023 requesting the police to investigate the matter and to take necessary action against the accused persons who are the private respondents. It is further mentioned in paragraph No.7 of the writ petition that there were repeated attempts between the petitioner and the private respondents to come to a mutual understating. However, there was no progress as a result of which the Koch Rajbongshi community has been deprived of the valuable past history and culture.

3. This Court further takes note of the FIR filed on 14.02.2023 enclosed as Annexure-10 to the writ petition wherein there are allegations being made against the private respondents.

4. I have heard the learned counsels for the parties and perused the materials on record. The dispute in question is absolutely a private civil dispute between the petitioners as well as the respondent Nos.5 to 9. There is also no allegation made in the writ petition that the respondent police authority have not taken any steps pursuant to the FIR being lodged.

5. Taking into account the above, it is the opinion of this Court that as the dispute raised in the instant writ petition being purely a private civil dispute between the petitioners and the respondent Nos.5 to 9, the question of entertaining the instant writ petition under Article 226 of the Constitution is not called for. The petitioners are always at liberty to take recourse to the provisions of the Code of Criminal Procedure, 1973 or initiate civil remedies as permissible under law, but the extra-ordinary public law remedy as has been sought to be done by the instant proceedings.

6. In view of the above, this Court is not inclined to entertain the instant writ petition for which the writ petition stands closed. However, as mentioned herein above, the non-entertaining of the instant writ petition shall not preclude the petitioners to other remedies permissible under law.

JUDGE