

GAHC010064162023



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

Case No. : WP(C)/1931/2023

ABDUL JALIL
S/O NASIB ALI, R/O KANGTAR, P.O.-JADHUTILLA AND DIST-KARIMGANJ,
ASSAM

VERSUS

THE STATE OF ASSAM AND 22 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT
OF ASSAM, DEPARTMENT OF FISHERY, DISPUR, GUWAHATI-6

2:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
V.I.P. ROAD
CHACHAL
GUWAHATI-36

3:THE ASSISTANT EXECUTIVE ENGINEER
AFDC LTD.
BVR
VIP ROAD
RANGPUR
SILCHAR-9

4:THE ASSISTANT PROJECT MANAGER
KANGTAR BEEL
KARIMGANJ

5:THE DEPUTY COMMISSIONER
KARIMGANJ
P.O. AND DIST-KARIMGANJ
ASSAM

6:ABDUL JALIL
S/O LATE ABDUL BARI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

7:ABDUL AZIZ
S/O LATE ABDUL BARI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

8:RAFIK UDDIN
S/O LATE ABDUL LATIF
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

9:SAFIKUR RAHMAN
S/O LATE ABDUL LATIF
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

10:FAIZUR RAHMAN
S/O LATE ROIS ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

11:RAZIA BEGUM
W/O FAIZUR RAHMAN
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

12:FATU BIBI
W/O ASKIR ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

13:AZIZUR RAHMAN
S/O LATE TOIYOB ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

14:HARUN AHMED
S/O LATE TOIYOB ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

15:FAIYAJ ALI
S/O LATE JAMIR ALI
R/O VILL-KHANGTER (GHA)

P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

16:ABDUL HANNAN @ LALU MIA
S/O LATE MOBARAK ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

17:ABDUL GAFUR
S/O LATE MOBARAK ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

18:SIDDEK ALI
S/O LATE MOBARAK ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

19:ABU BAKKAR
S/O SIDDEK ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

20:ABDUL NOOR
S/O LATE AKLIM ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

21:ALPARI BIBI
D/O LATE AKLIM ALI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

22:HARUN AHMED
S/O LATE SAL AHMED
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

23:SIRAJ UDDIN
S/O LATE ABDUL BARI
R/O VILL-KHANGTER (GHA)
P.O.-CHATAL AND DIST-KARIMGANJ (ASSAM)

Advocate for the Petitioner : MS. S B CHOUDHURY

Advocate for the Respondent : SC, AFDC

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 04-04-2023

Heard Ms. S.B. Choudhury, learned counsel for the petitioner. Also heard Mr. P. Sharma, learned counsel for the respondent Nos. 2 & 3 and Mr. K. Gogoi, learned counsel for the respondent Nos. 1 & 5.

2. The petitioner has prayed for extension of the settlement of the Fishery, for a further period of 3 (three) years w.e.f. 01.04.2023. The grievance of the petitioner is that he had been initially settled with the Kangtar Fishery in the year 2013, for a period of 7 (seven) years, which was to end on 31.03.2020. Although there was a tender for resettlement of the Fishery, for the period subsequent to 31.03.2020, no tenderers came forward for settlement of the Fishery due to Covid-19 pandemic.

3. The petitioner thereafter made an application for extension of the settlement of the Fishery. By an Order dated 12.10.2020 issued by the respondent No. 3, the lease period of the Fishery was extended in favour of the petitioner up-to 31.03.2023. The extension period expired on 31.03.2023. The petitioner's prayer for extension of the lease period of the Fishery for another period of 3 (three) years is on the ground that he has not been able to run the Fishery, in view of some persons objecting to the petitioner running the Fishery and Title Suit No. 30/2021 being filed by 18 (eighteen) persons against the petitioner, with regard to the running of the Fishery by the petitioner.

4. The petitioner's counsel submits that as the petitioner has suffered huge

revenue loss, the prayer for extension of settlement of the Fishery, for another period of 3 (three) years w.e.f. 01.04.2023 should be allowed by the respondents. She further submits that though the petitioner has submitted a representation dated 20.01.2023 to the respondent No. 2, for extension of the lease for the Fishery, no decision has been taken by the respondent No. 2 till date.

5. Mr. P. Sharma, learned counsel appearing for the respondent Nos. 2 & 3 submits that he has received instructions to the effect that a notice inviting tender, for settlement of the Fishery is going to be published in another 10 (ten) days' time and the petitioner can also participate in the tender process. He therefore submits that the writ petition should be dismissed, as no right of the petitioner has been violated.

6. I have heard the learned counsels for the parties.

7. As can be seen from the writ petition, the Kangtar Fishery had been initially settled with the petitioner, for a period of 7 (seven) years in the year 2013 till 31.03.2020. Thereafter, vide Order dated 12.10.2020, the lease period of the Fishery in favour of the petitioner was extended by another 3 (three) years till 31.03.2023. The extended lease period having expired, no legal or fundamental right of the petitioner has been violated as on date.

8. The dispute between the petitioner and the persons who filed Title Suit No. 30/2021 is in the realm of private law, which will take it's own course. As no legal right of the petitioner has been violated, there is no ground for this Court to exercise it's discretion under Article 226 of the Constitution of India.

9. The writ petition is accordingly dismissed.

10. However, the dismissal of the case will not be a bar for the respondent Nos. 2 & 3, to take a decision on the petitioner's application dated 20.01.2023, for extension of the lease on the Fishery.

JUDGE

Comparing Assistant