

GAHC010099252023



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

Case No. : WP(C)/2540/2023

ISMAIL ALI AND 16 ORS.
S/O- LATE AYUB ALI,
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE,
P.O- KOTAMONI,
P.S- BAZARICHERRA,
DIST- KARIMGANJ, ASSAM

2: AJMAT ALI
S/O- ISMAIL ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

3: BILATUN NESSA
W/O- KHECHAMAT ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

4: HASON ALI
S/O- LATE AYUB ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

5: NAJIM UDDIN
S/O- LATE TOJOY MIYA

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

6: SHYAMS UDDIN
S/O- LATE MAHMOD ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

7: NACHIR UDDIN
S/O- LATE INTAI MIA
R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

8: FURKAN ALI
S/O- PETU MIA

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

9: ROSMAN ALI
S/O- LATE INCHAN ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

10: RAMIJ UDDIN
S/O- LATE MUNSIFAR JAN ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

11: AJIM UDDIN
S/O- NACHIR UDDIN

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

12: ARKAM ALI
S/O- LATE ACHAB ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

13: SIDDIQUE AHMED
S/O- ARKAM ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

14: ASAR ALI
S/O- LATE ASHID ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

15: ALTAB UDDIN
S/O- LATE NAJIB ALI

R/O- VILLAGE N.S SOLAMONA FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

16: ABDUL KHALIQUE
S/O- FAYAJ ALI

R/O- VILLAGE N.S SHAMBUNAGAR FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSAM

17: RAFIK ALI
S/O- INTAZ ALI

R/O- VILLAGE N.S SHAMBUNAGAR FOREST VILLAGE

P.O- KOTAMONI

P.S- BAZARICHERRA

DIST- KARIMGANJ
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM, ENVIRONMENT AND FOREST DEPARTMENT
A-BLOCK, 3RD FLOOR, JANATA BHAWAN, DISPUR, GUWAHATI- 781006,
ASSAM.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE

ASSAM
ARANYA BHAWAN
ASSAM
PANJABARI
GUWAHATI- 781037.

3:THE DIVISIONAL FOREST OFFICER
LONGAI FOREST DIVISION
KARIMGANJ DIVISION
KARNAMADHU PART -II
KARIMGANJ
ASSAM

4:THE FOREST BEAT OFFICER
LONGAI BEAT
KARIMGANJ
ASSA

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 20.06.2023

Heard Mr. S. Dey, learned counsel for the petitioners. Also heard Mr. K.P. Pathak, learned standing counsel for the Forest Department.

2. At the outset, the learned standing counsel for the Forest Department has submitted that in view of the nature of dispute raised by the petitioners as well as considering the documents filed in support of the writ

petition, it is suggested that the petitioners be relegated to approach the Divisional Forest Officer, Longai Forest Division, Karimganj and submit a representation with all supporting documents to justify their respective claims to continue to dwell in the forest area as forest dwellers.

3. On such submission being made, the learned counsel for the petitioners has submitted that if so directed by this Court, the petitioners would approach the Divisional Forest Officer, Longai Forest Division, Karimganj so as to enable the said authority to examine the claim of the petitioners to continue residing on N.S. Solamona Forest Village, Old Solamona Forest Village, and Shambunagar Forest Village under Longai Reserve Forest. However, it is submitted that as the petitioners apprehended their eviction from the households, the petitioners be protected for some time till they approached the jurisdictional Divisional Forest Officer.

4. Considered the submissions made by both the sides.

5. Hence, without observing anything on merit of the writ petition, the Court is inclined to close this writ petition with liberty to the petitioners to submit a representation before the Divisional Forest Officer, Longai Forest Division, Karimganj to justify their continued residence in the three forest villages referred hereinabove and file all relevant documents before the said authority on which they intend to rely upon.

6. The petitioners shall approach the said authority within a period of 2 (two) weeks from today and on receipt of such representation along with a certified copy of this order, the Divisional Forest Officer, Longai Forest Division,

Karimganj (respondent no.3) shall provide an opportunity of hearing to the petitioners and decide the said representation within a period of 6 (six) weeks from the date of receipt of such representation.

7. Taking note of the projection made in this writ petition that the petitioners are residing within the forest area for more than 75 years of three generations as provided under section 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 as well as also the decision of the Govt. of India, Ministry of Tribal Affairs for conversion of forest villages, old habitations, unsurveyed villaged etc. into revenue villages under section 3(1)(h) of the said Act, the Court is inclined to provide that till the representation of the petitioners are heard and disposed of, the Divisional Forest Officer, Longai Forest Division, Karimganj shall not evict the petitioners without leave of the Court.

8. On terms as indicated above, this writ petition stands disposed of.

JUDGE

Comparing Assistant