

GAHC010125442023



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

Case No. : WA/213/2023

ABDUR ROUF AND 56 ORS.

S/O LATE FARID ALI, RESIDENTS OF VILLAGE- OLD SOLAMONA BORO
SOBRI, P.O.-ISABHEEL, P.S.-BAZARI CHERRA, DISTRICT- KARIMGANJ,
ASSAM, PIN-788728.

2: JAFUR AHMED

S/O LT. ISAK ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

3: ABDUL RAHMAN

S/O LT. MUZAMMIL ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

4: ABDUL KAIYUM

S/O LT. FIRAJ ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

5: SALIKUR RAHMAN

S/O ABDUR RAHMAN
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

6: ABDUL KALAM

S/O LT. ABDUR RAZZAK
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

7: ABDUL GAFUR
S/O LT. ISAK ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

8: MAYUR UDDIN
S/O LT. MASADDAR ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

9: ABDUL JALIL
S/O LT. ABDUL MANNAN
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

10: BILAL AHMED
S/O LT. SUAI MIA
RESIDENTS OF
VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

11: ANOWARA BEGUM
W/O LT. ABDUL KADIR
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

12: HAFIJUR RAHMAN
S/O LT. JAFAR ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

13: RAHIM UDDIN
S/O LT. SAIBUR RAHMAN
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

14: FAKAR UDDIN
S/O LT. FIROJ ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

15: RAHIMA BIBI
W/O LT. SAYAB ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

16: NIJAM UDDIN
S/O LT. FAIJUL RAHMAN
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

17: HANIFA BIBI
W/O LT. ABDUL AHAD
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

18: BEDANA KHATUN
W/O LT. ABDUL SUKUR
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA,DISTRICT-KARIMGANJ
ASSAM,PIN-788728.

19: SAMSUL HOQUE
S/O LT. AABDUL MUSSABIR
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

20: ABDUL SUKKUR
S/O LT. ABDUL RASHID
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM,PIN-788728.

21: LUTFUR RAHMAN
S/O LT. NOOR UDDIN
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL,P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ. ASSAM, PIN-788728.

22: ABDUL SAHID
S/O LT. FURKAN UDDIN
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA, DISTRICT-KARIMGANJ
ASSAM, PIN-788728.

23: ABDUL RAKIB
S/O LT. ABDUL SHAHID
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

24: ABDUL WAHID
S/O LT. ABDUL RAKIB
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

25: ASIYA BEGUM
W/O LT. ABDUL ODUD
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

26: ABDUL KALAM
S/O LT. SIFAT ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

27: BEDANA BEGUM CHOUDHURY
D/O L. ABDUL MALIK
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

28: ABDUL MATLIB
S/O LT. AKRAM ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

29: ABDUL HASIB
S/O LT. ABDUL KARIM
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

30: SAMIMA AKHTAR
W/O NAZMUL ISLAM
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

31: NAPURJAN BIBI
W/O SAIF UDDIN
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

32: SIDDEK ALI
S/O LT. ABDUL GONI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

33: ABDUL MANNAN
S/O LT. MUDARIS ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

34: FAIJUL RAHMAN
S/O LT. SAKAWAT ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

35: ABDUL MUMIN
S/O LT. SIDDEK ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

36: SURATAN BIBI @ CHURHA BIBI
W/O LT. ABDUL MAJID
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

37: ABDUL SATTAR
S/O LT. WAKIR ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

38: ABDUL RASHID
S/O LT. ABDUL WAKIL @ KHALIL UDDIN
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

39: JAINUL HOQUE
S/O LT. ABDUL HOQUE
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

40: KAMAR UDDIN
S/O LT. TAHIR ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

41: AFTAB UDDIN @ ATAUR RAHMAN
S/O LT. ABDUL BARI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

42: PIARA BEGUM
W/O LT. BASIR ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

43: MUKHLISUR RAHMAN
S/O LT. MATASIN ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA,
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

44: NIJAM UDDIN
S/O LT. FARID ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

45: ASMA BEGUM @ ASMA KHATUN
W/O ABDUL MALIK
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

46: NAKOI BIBI
W/O LT. ABDUL KARIM @ KARIM ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

47: KABIR UDDIN
S/O LT. TAHIR ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

48: ABDUL SALAM
S/O LT. SIFAT ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

49: AFTERA BEGUM
W/O LT. MIRJAN ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

50: ABDUL JABBAR
S/O LT. ABDUL GAFUR
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

51: ABDUR NOOR
S/O LT. TURAB ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

52: BEGOM BIBI
W/O ABDUL HASIB
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

53: ABDUL HAMID
S/O LT. RAKIB ALI
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

54: ASHA BIBI
W/O LT. ABDUR ROUF
RESIDENTS OF VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

55: SAB UDDIN
S/O LT. FAYJUR RAHMAN
RESIDENTS OF
VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

56: HARI BIBI
D/O LT. ABDUL SAHID
RESIDENTS OF
VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728.

57: ANOWARA BEGUM
D/O LT. ATAUR RAHMAN
RESIDENTS OF
VILLAGE-OLD SOLAMONA BORO SOBRI
P.O.-ISABHEEL, P.S.-BAZARI CHERRA
DISTRICT-KARIMGANJ, ASSAM, PIN-788728

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPTT.,
DISPUR GUWAHATI- 6.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE, ASSAM
PANJABARI, GUWAHATI-37

3:THE DEPUTY COMMISSIONER, KARIMGANJ
DISTRICT-KARIMGANJ, ASSAM.

4:THE DIVISIONAL FOREST OFFICER, KARIMGANJ
DISTRICT-KARIMGANJ, ASSAM.

5:THE RANGE OFFICER
LOWAIRPUWA RANGE OFFICE, PATHARKANDI
DISTRICT-KARIMGANJ, ASSAM.

6:THE CIRCLE OFFICER
PATHERKANDI REVENUECIRCLE, PATHERKANDI
DISTRICT-KARIMGANJ, ASSAM

For the Appellant(s) : Mr. R.P. Sarmah, Senior Advocate assisted by
Mr. D. Doley and Ms. A. Deka, Advocates.

For the Respondent(s) : Mr. P.N. Goswami, Additional Advocate General,
Assam assisted by Mr. I. Kalita, Standing
Counsel, Forest Department.

Ms. M. Bhattacharjee, Additional Senior
Government Advocate, Assam.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

05.08.2023

The instant intra-Court writ appeal is directed against the judgment and final order dated 09.05.2023 rejecting the writ petition filed by the appellants herein being WP(C) No.4775/2023 with the prayer to direct the respondents in the Forest Department of the Government of Assam as well as the Deputy Commissioner, Karimganj and the Circle Officer, Patharkandi Revenue Circle to take necessary the steps for entering the names of the appellants/writ petitioners in the Jamabandi Register maintained for Old Solamona Boro Sobri Forest Village in terms of the Letter No.FGH.18/G/74/3069, dated 06.11.1974 issued by the Conservator of Forest, Hills, Assam, Shillong as well as the order No.262 dated 31.12.1975 issued by the Divisional Forest Officer, Cachar Division, Silchar.

2. The learned Single Judge, rejected the writ petition of the petitioners/appellants herein after giving due consideration to the provisions of the Assam Forest Regulations, 1891 (in short, the Regulations of 1981) as well as the provisions of the Forest (Conservation) Act, 1980 and found that the rights that may accrue to persons who are the beneficiaries of the letter dated 06.11.1974 and the order dated

31.12.1975 cannot exceed the rights that have been provided in the Regulations of 1891 and any indication in these two documents which were beyond the scope of the Rules would not carry any legal sanction or recognition.

The learned Single Judge further concluded that as per Section 2 of the Forest (Conservation) Act, 1980 (in short, the Act of 1980) which begins with a non-obstante clause, stipulating that no State Government or any other authority is empowered to make, except with the prior approval of the Central Government, any order directing, amongst others, that any forest land or any portion whereof may be used for any non-forest purposes and that any forest land or any portion thereof be assigned by way of lease or otherwise to any private person.

3. Mr. R.P. Sarmah, learned Senior counsel assisted by Mr. D. Doley and Ms. A. Deka, learned counsel representing the appellants urged that the appellants are not seeking leasehold rights on the land in question but are only praying for permission to exercise forest village rights in terms of the letter dated 06.11.1974 and the order dated 31.12.1975 by entering their names in the Jamabandi Register so as to enable them to pay the revenue and to restrain the respondents from evicting the appellants/writ petitioners from their respective lands. He urged that the petitioners were settled by the Government on the lands in question in order to protect the forest area which was earlier encroached upon the Rang-Reang people and have been enjoying the fruits of the land for the last nearly three decades without any adverse effects on the forest area. He thus urged that the appellants who are landless people deserve the relief sought for by them in the writ petition.

4. Mr. P.N. Goswamim, learned Additional Advocate General, Assam; Mr. I. Kalita, learned Standing Counsel, Forest Department and Ms. M. Bhattacharjee, learned Additional Senior Government Advocate, Assam, however, vehemently and fervently opposed the submission advanced by learned Senior counsel for the appellants.

5. They urged that in view of the over-riding effect of Section 2 of the Forest

(Conservation) Act, 1980, no authority of the State Government, can direct allotment of forest land to any private person. They thus urged that the appellants cannot claim to settle in the reserved forest area under the guise of it being a forest village. They further pointed out that the learned Single Judge has already given indulgence to the appellants that they may submit applications for allotment of lands under the appropriate land policy of the Government of Assam and in turn, the Government has been required to take up such applications as per law.

6. As per Mr. Goswami, this liberty as granted by the learned Single Judge is beyond the relief sought for by the appellants/writ petitioners in the writ petition and hence, no further indulgence can be extended to the appellants/writ petitioners in this matter.

He submitted that the appellants/writ petitioners would be better advised to take recourse of the remedy/indulgence granted to them by the learned Single at para No.41 of the impugned order, which reads as below:

“41. But, however, as the petitioners claim that as they are landless people as depicted in the letter dated 06.07.1974, they may submit applications for allotment of lands under the appropriate land policy of the Government of Assam. In the event, it is done, such applications may be taken up as per law by following the relevant procedure and it may be brought to its logical end within three months of making any such application.”

7. Faced with this scenario, Mr. Sarmah, learned Senior counsel representing the appellants candidly concedes that the above process is the only remedy available to the appellants.

8. We have given our thoughtful consideration to the submissions advanced at Bar and have gone through the impugned order and the material placed on record.

9. There cannot be any dispute that by virtue of the over-riding effect of Section 2 of the Forest (Conservation) Act, 1980 and in view of the orders passed by the Hon'ble Supreme Court in the continued Mandamus petition of *T.N. Godavarman Thirumulpad Vs. Union of India and Others*, the Court cannot direct/permit mutation of reserve

forest land to be made in favour of the appellants as there is complete prohibition on change of land use of this category of land.

10. In this background, leaving the appellants at liberty to take recourse of the remedy as provided by the learned Single Judge at para No.41 of the impugned judgment dated 09.05.2023 reproduced (supra), the instant writ appeal is disposed of.

No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant