

GAHC010129222023



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

Case No. : PIL/46/2023

ABDUL OMMAR
S/O- LATE NAZIR UDDIN,
VILLAGE GOTABARI,
P.O- HAZIRHAT, P.S- SUKCHAR,
DIST- SOUTH SALMARA MANKACHAR, ASSAM, PIN-783128

VERSUS

THE STATE OF ASSAM AND 20 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM REVENUE AND
D.M (SETTLEMENT BRANCH) DEPARTMENT,
DISPUR, GUWAHATI 06

2:THE PRINCIPAL SECRETARY
TO THE GOVT OF ASSAM REVENUE DEPARTMENT
DISPUR, GUWAHATI 06

3:THE DEPUTY COMMISSIONER
SOUTH SALMARA MANKACHAR
P.O AND P.S- HATSINGIMARI
ASSAM, PIN-783135

4:THE CIRCLE OFFICER
MANKACHAR REVENUE CIRCLE
DIST- SOUTH SALMARA MANKACHAR
P.O AND P.S- MANKACHAR
ASSAM, PIN-783131

5:ABDUL KARIM MOZUMDER
S/O- LATE HUSSAIN ALI

6:GAZI ROHMAN
S/O- LATE RONJAN ALI

7:BOKKAR ALI
S/O- LATE BANEZ MUNCHI

8:ABDUL HAMID SARKAR
S/O LATE ATWAR ALI

9:MOFIDUL ISLAM MOZUMDER
S/O- MOYNAL HOQUE MOZUMDER

10:ROHIMUDDIN
S/O- LATE HUSSAIN ALI

11:JOHIRUZ ZAMAN AHMED
S/O- MOKSED ALI.

ALL ARE R/O- VILL- KHOPATIA PART IV
P.S- SUKCHAR, DIST- SOUTH SALMARA MANKACHAR
ASSAM

12:MONTAZUL HASSAN
S/O- SAHIDUR HOSSAIN MONDAL

13:AZIAR RAHMAN
S/O- LATE SABULLA SK

14:ZAMAL SHEIKH
S/O- LATE SOKIYAL HOQUE

15:MONIRUL ISLAM
S/O- LATE MONTAZ MUNSHI

16:ABDUL KALAM SK
S/O- LATE ABDUR RAHMAN SHEIKH.

ALL ARE VILLAGE KHOPATIA PART III
P.S- SUKCHAR, DIST- SOUTH SALMARA MANKACHAR ASSAM

17:WAHIDUR RAHAMAN
S/O- LATE ABDUL KASHEM SHAH.
VILL- CHOTO HARIPUR
P.S- SUKCHAR DIST- SOUTH SALMARA MANKACHAR ASSAM

18:YOUSUF ALI
S/O- LATE ABDUL HAKIM SK..
VILL- BORAITARI
P.S- SUKCHAR, DIST- SOUTH SALMARA MANKACHAR
ASSAM

19:MD. ANOWARUZZAMAN SK
S/O- LATE ABDUR RAHMAN SK .
VILL- GOKULPUR
P.S- SUKCHAR
DIST- SOUTH SALMARA MANKACHAR
ASSAM

20:PRESIDENT/SECRETARY
DARUL ULOM KHOPATIA MADRASSA
P.S- SUKCHAR
DIST- SOUTH SALMARA MANKACHAR
ASSAM

21:HEAD MASTER
PUBLIC HIGH SCHOOL KHOPATIA
P.S- SUKCHAR
DIST- SOUTH SALMARA MANKACHAR
ASSAM

For the Petitioner : Mr. A.Z. Ahmed, Advocate.

For the Respondent(s) : Ms. M. Bhattacharjee, Additional Senior Government
advocate, Assam for respondent Nos.1, 3 and 4.
: Ms. N. Bordoloi, Standing Counsel, Revenue and
Disaster Management Department for respondent No.2.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

16.06.2023

The petitioner has approached this Court by filing this writ petition styled as Public Interest Litigation (PIL) petition raising grievances against the respondent authorities allowing the private respondents to run their shops on the land of Public High School Khopatia. It is alleged that private respondents have illegally encroached upon the land of Public High School Khopatia and are running their shop/business over

the land of the Public High School.

2. The petitioner has sought for following relief(s):

*“Under the above circumstances, it is therefore prayed that Your Lordships would graciously be pleased to admit this petition, call for the records, and issue a Rule, calling upon the Respondents to show cause as to why a Writ in the nature of Certiorari/Mandamus and/or any other appropriate Writ, order or direction of like nature should not be issued, setting aside and quashing the impugned order dated 15.03.2022 (**ANNEXURE-6**)*

and further be pleased to direct the respondent authorities to evict the private respondents from the land of the institution and after perusal of the records, cause or cause shown if any and upon hearing the parties, Your Lordship may be pleased to make the Rule absolute and/or pass such appropriate Order/Orders or direction as Your Lordship, may deem fit and proper in the interest of justice.

-AND-

*Further, it is also prayed that pending disposal of the Rules, Your Lordships would be pleased to stay/suspend the operation of the Impugned order dated 15.03.2022 (**ANNEXURE-6**) in the interest of justice.”*

3. Allegations set out in the writ petition are regarding encroachment of land of a Public High School.

4. We feel that the issues sought to be agitated through this writ petition before this Court involve significant factual aspects and thus, the petitioner is required to approach the District Level Public Land Protection Cell (PLPC) constituted for the district concerned in terms of the Government of Assam’s Notification No.ECF.258737 dated 24th May, 2023.

5. The petitioner may file a representation to the competent authority for ventilating the grievances set out in this writ petition along with a copy of this order.

6. Upon receiving such representation, the PLPC concerned shall consider the same objectively after providing opportunity of hearing to the parties concerned and pass a

reasoned order thereupon as per law.

In case, the grievance raised by the petitioners is found to be justified, appropriate steps be taken to remove the encroachments. The exercise as directed above shall be completed within 6 (six) months from the date of submission of the representation.

7. Needless to say that in case any adverse order is passed, the petitioner will be at liberty to take recourse of suitable legal remedy for ventilating the same.

8. The instant writ petition (PIL) is disposed of with the above observations and directions.

JUDGE

CHIEF JUSTICE

Comparing Assistant