

GAHC010158632023



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

Case No. : WP(C)/4222/2023

KULEN CH NATH AND 3 ORS
S/O- JOY RAM NATH,
R/O- NO. 1 BONDA GRANT, 184, NARENGI,
P.O- NARENGI,
DIST.- KAMRUP(M), ASSAM.

2: PRATIMA DEKA
W/O- SRI SHYAM KUMAR

R/O- BONDA

P.O.- NARENGI

DIST.- KAMRUP(M)
ASSAM.

3: RAMESH SHAH
S/O- LATE NARAYAN SHAH

R/O- BONDA

P.O.- NARENGI

DIST.- KAMRUP(M)
ASSAM.

4: PUNU BORA
S/O- MAHESWAR BORA

R/O- BONDA

P.O.- NARENGI

DIST.- KAMRUP(M)

ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT,
DISPUR, GUWAHATI- 781006, ASSAM.

2:THE DEPUTY COMMISSIONER
KAMRUP(M)
GUWAHATI- 781001.

3:THE CIRCLE OFFICER
CHANDRAPUR REVENUE CIRCLE
GUWAHATI

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 04-08-2023

Heard Mr. S. Borthakur, learned counsel for the writ petitioners. Also heard Ms. G. Hazarika, learned standing counsel, Revenue and DM Department, Assam appearing for the respondent No. 1 as well as Ms. S. Sarma, learned Govt. Advocate, Assam appearing for the respondent Nos. 2 and 3.

The four writ petitioners herein have approached this Court by jointly filing this writ petition assailing the eviction notices issued to them by the Circle Officer of Chandrapur Revenue Circle, Panikhaiti.

Mr. Borthakur submits that the writ petitioners are original inhabitants (indigenous persons) residing in Assam and they are also landless people. According to the petitioners, they have applied for allotment of sarkari land presently under their occupation since last 30/40 years and also claim to be entitled for the benefit under the "Mission Basundhar Scheme" floated by the Govt. of Assam. Notwithstanding the same, the respondent No. 3 has issued the eviction notices, in pick and choose manner, by targeting the four writ petitioners while ignoring the large number of other occupants of the Govt. land in the adjoining area. Mr. Borthakur submits that his clients had submitted a representation dated 12-07-2023 before the respondent No. 2 ventilating their grievance in the matter. However, no action has been taken on the said representation till date.

Mr. Borthakur has also invited the attention of this Court to Clause 15.2 of the Land Policy, 2019 introduced by the Govt. of Assam through the Revenue & DM Department, Assam which indicates that the Deputy Commissioner (District Commissioner) should prepare a scheme/ plan of eviction for every district and the said scheme should also include post eviction plan. The learned counsel for the petitioners submits that no such scheme to the knowledge of the petitioners have been prepared for the Kamrup (Metro) district.

It is the admitted position of fact that the petitioners are in occupation of sarkari land. However, whether their applications for settlement/ allotment of lands have been received by the Govt. and if so, what is the status of the same, is not discernable from the materials on record. Moreover, if the petitioners are actually entitled to allotment of

the land under the "Basundhara Scheme" then their applications would require proper consideration by the authorities. Until such time, the said exercise is carried out and completed the petitioners cannot be thrown out of the land under their occupation causing serious inconvenience to them and their family members.

Under the circumstances, this Court is of the opinion that the grievance of expressed by the petitioners in the representation dated 12-07-2023 deserves proper consideration by the competent authority, i.e. the respondent No. 2.

As such, this writ petition is being disposed of at the stage of motion hearing by providing that the respondent No. 2 may consider the grievance of the petitioners as reflected in the representation dated 12-07-2023 and pass appropriate order(s) therein by keeping in mind the mandate of Clause 15.2 of the Land Policy, 2019.

Until such time the said exercise is carried out and completed, the respondent Nos. 2 and 3 are restrained from disturbing the possession of the petitioners over the land under their occupation.

Writ petition stands closed.

JUDGE

GS

Comparing Assistant