

GAHC010166022023



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

Case No. : WP(C)/4364/2023

JUNAIDUL ISLAM AND ANR
S/O. ABDUL FATTAR,
R/O- VILLAGE- JURIRPAR,
P.S.- KACHUA,
DIST.- NAGAON, ASSAM,
PIN- 782426.
(PROPRIETORS OF VEHICLES).

2: DAYAL CH. KRO
S/O- LATE GAMBHIR KRO

R/O- VILLAGE- TARADUBI
TUMPRENG

DISTRICT- WEST KARBI ANGLONG (ASSAM).
PIN- 782485
(PROPRIETOR OF TEAK PLANTS)

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
FOREST DEPARTMENT, DISPUR,
GHY-6, K(M), ASSAM.

2:THE OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND
HEALD OF FOREST FORCE
REHABARI
GUWAHATI- 781008.

3:THE DIVISIONAL FOREST OFFICER
HAMREN
WEST KARBI ANGLONG
ASSAM

Advocate for the Petitioner : MR. R C DAS

Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 07/08/2023

Heard Mr. R.C. Das, learned counsel for the writ petitioners. Also heard Ms. Sabina Ahmed, learned Standing Counsel, Forest Department, Assam, appearing for the respondent nos. 1 & 2 and Ms. S. Kemprai, learned Standing Counsel, KAAC, appearing for the respondent no. 3.

The petitioner no. 1 is the owner of a TATA YODHA Vehicle bearing registration No. As 02 CC 8038 and the petitioner no. 2 claims to be the owner of 20 nos. of Teak plants, which were seized by the Forest Department authorities on 17/03/2022 along with the vehicle. According to the petitioner no. 2, the plantation were raised over his private patta land and, therefore, no permit was required to remove the same by engaging a vehicle. Notwithstanding the same and without considering the factual back ground of the case, the authorities have arbitrarily seized the vehicle along with the logs of Teak plantation, thus causing serious injury to the petitioners. Hence, this writ petition

Mr. Das further submits that his clients have submitted representation before the concerned Divisional Forest Officer, raising grievance in the matter but no action has been taken on such representation till date.

Ms. Kemprai submits that due to non-furnishing of extra copies of the writ petition, she could not obtain instruction in the matter. Ms. Ahmed also takes a similar stand in the matter.

Be that as it may, whether the plantation have been made by the petitioner no. 2 over his private patta land and if so, whether the removal of the same by engaging the vehicle of the

petitioner no. 1, was in accordance with law, are matters which would require a factual enquiry by the departmental authorities. It is only after a decision is taken in the matter by the departmental authority that the Writ Court would be in a position to ascertain the validity of the impugned action.

As such, although, the learned departmental counsel have prayed for some more time to obtain instruction in the matter, I am of the view that keeping this writ petition pending before this Court, would not serve any practical purpose. As such, this writ petition is being disposed of by permitting the petitioner nos. 1 and 2 to submit fresh representations before the respondent no. 3 enclosing the supporting documents, ventilating their grievance in the matter.

If such representation(s) is filed within 10(ten) days from today by enclosing a certified copy of this order, then the same be considered on merit and disposed of by a reasoned order within three weeks thereafter.

Whatever be the decision of the respondent no. 3, the same be communicated to the petitioners in writing.

If the petitioners continue to remain aggrieved even thereafter, it would be open for them to approach this Court once again by filing appropriate writ proceeding.

With the above observations, the writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant