

GAHC010169802023



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

Case No. : WP(C)/4417/2023

SARAT KALITA AND 8 ORS.
SON OF SRI MUHIDHAR KALITA,
VILLAGE- JAYSAGAR SOPUN NAGAR,
POST OFFICE- JAYSAGAR, PIN- 785665,
DISTRICT- SIVASAGAR, ASSAM.

2: TILAK BORA
SON OF LATE ATUL CH. BORA

VILLAGE- JAYSAGAR SOPUN NAGAR

POST OFFICE- JAYSAGAR
PIN- 785665.
DISTRICT- SIVASAGAR
ASSAM.

3: RITA BORA
DAUGHTER OF LATE TAPAN BORA

VILLAGE- JAYSAGAR SOPUN NAGAR

POST OFFICE- JAYSAGAR
PIN- 785665.
DISTRICT- SIVASAGAR
ASSAM.

4: BIDYADHAR BORGOHAIN
SON OF LATE GOLOK BORGOHAIN

POST OFFICE- JAYSAGAR
PIN- 785665.
DISTRICT- SIVASAGAR
ASSAM.

5: DHIREN KUMAR
SON OF LATE BONGSHIRAM KUMAR

VILLAGE- MANKATA ALI (SOPUN NAGAR)

POST OFFICE- RUDRASAGAR
PIN- 785665

DISTRICT- SIVASAGAR
ASSAM.

6: TANKESWAR BORA
SON OF SRI ATUL CH. BORA

VILLAGE- JAYSAGAR SOPUN NAGAR

POST OFFICE- JAYSAGAR
PIN- 785665.

DISTRICT- SIVASAGAR
ASSAM.

7: JATIN DUTTA
SON OF LATE KON DUTTA

POST OFFICE- RUDRASAGAR
PIN- 785665

DISTRICT- SIVASAGAR
ASSAM.

8: DIPSIKHA GOGOI
DAUGHTER OF SRI DILIP GOGOI

VILLAGE- JAYSAGAR SOPUN NAGAR

POST OFFICE- JAYSAGAR
PIN- 785665.

DISTRICT- SIVASAGAR
ASSAM.

9: MUMNI BHARALI
DAUGHTER OF LATE BIREN BHARALI

VILLAGE- JAYSAGAR SOPUN NAGAR

POST OFFICE- JAYSAGAR
PIN- 785665.

DISTRICT- SIVASAGAR

ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY ITS COMMISSIONER AND SECRETARY,
REVENUE DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE DEPUTY COMMISSIONER
SIVASAGAR
DISTRICT- SIVASAGAR
PIN- 785640.

3:THE CIRCLE OFFICER
AMGURI REVENUE CIRCLE
SIVASAGAR
PIN- 785640

Advocate for the Petitioner : MR. A C BURAGOHAIN

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 04/08/2023

Heard Mr. A. C. Buragohain, learned senior counsel assisted by Ms. H. Borah, learned counsel for the writ petitioners. Also heard Ms. N. Bordoloi, learned Standing Counsel, Revenue and DM Department, Assam, appearing for the respondent no. 1 and Mr. B. Deuri, learned Government Advocate, Assam, appearing for the respondent nos. 2 and 3.

The 9(nine) writ petitioners herein, have approached this Court jointly by filing this writ petition expressing apprehension that they might be evicted by the respondent no. 2 from the land under their occupation without following the due process of law. According to the petitioners, they are running petty shops of various kind over the sarkari land situated in the front of the Sivasagar

Hospital, Joysagar since past several years, for earning their livelihood. The petitioners have also applied for settlement/allotment of land under the "Mission Basundhara 2.0" and their applications are pending consideration before the appropriate authorities. Notwithstanding the same, the respondent nos. 2 and 3 are threatening to evict the petitioners from their shops without following the due process of law or serving any prior notice upon them. Hence, this writ petition.

Mr. Buragohain, learned senior counsel for the petitioners has also invited the attention of this Court to the order dated 21/07/2000 issued by the then Deputy Commissioner, Sivasagar to contend that his clients are not opposing the move to take back possession of Government land under their possession if the same is genuinely required for any public purpose. However, they are at-least entitled to a prior notice giving them sufficient time to make alternative arrangements. Moreover, during the pendency of the application submitted by the petitioners for allotment of land under "Mission Basundhara 2.0", the respondents cannot arbitrarily evict the petitioners from the land under their occupation.

Mr. Deuri, learned Government Advocate, Assam, has fairly submitted that the applications submitted by the petitioners for allotment of land under the scheme "Mission Basundhara" is pending consideration before the authorities.

From the order dated 21/07/2000 (Annexure-2), it appears that the petitioners are entitled to some notice before they can be evicted from the aforesaid land. Moreover, Mr. Buragohain submits that even if the petitioners are required to remove their shops from the aforesaid land, even then, they are entitled to allotment of alternative shop lying vacant in the market complex constructed by the Sivasagar District Administration. However, their request to the above effect has not been considered by the authorities.

After hearing the submissions made at the Bar and taking note of the facts and circumstances of the case in its entirety, this writ petition is being disposed of at the stage of motion hearing by

providing that the possession of the petitioners over the "sarkari land" under their occupation shall not be disturbed without serving prior written notice upon them, as per law and in accordance with the order dated 21/07/2000. The requests made by the petitioners for allotment of land under "Mission Basundhara 2.0" and also allotment of alternative shops in the market complex allegedly constructed District Administration, be also appropriately examined before any eviction drive is carried out against the petitioners.

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

JUDGE

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Comparing Assistant