

GAHC010190582023



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

**Case No. : WP(C)/4945/2023**

JOYNAL ABEDIN AND 8 ORS.

S/O- AHAD ALI SK, VILL.- FULERCHAR PART-II, P.O. FULERCHAR, DIST,  
SOUTH SALMARA MANKACHAR, ASSAM, PIN- 783135.

2: AKHERUZZAMAN SHEIKH

S/O- MOSLEM UDDIN SHEIKH

VILL.- FULERCHAR PART-III

P.O. FULERCHAR

DIST. SOUTH SALMARA MANKACHAR

ASSAM

PIN- 783135.

3: MARJINA KHATUN

W/O- AKHIRUL ISLAM SARKAR

VILL.- BHIMAPARA

P.O. HATSINGMARI

DIST. SOUTH SALMARA MANKACHAR

ASSAM

PIN- 783135.

4: NUR JAHAN BEGUM

W/O- MOSADDUR ROHMAN

VILL.- FULERCHAR PART-III

P.O. FULERCHAR

DIST. SOUTH SALMARA MANKACHAR

ASSAM

PIN- 783135.

5: MOY HUSSIAN

S/O- SAYED HUSSAIN

VILL.- FULERCHAR PART-II

P.O. FULERCHAR

DIST. SOUTH SALMARA MANKACHAR

ASSAM

PIN- 783135.

6: SATTAR ALI SHEIKH  
S/O- BELLAL SHEIKH  
VILL.- KALIRALGA PART-I  
P.O. SUKCHAR  
DIST. DHUBRI  
ASSAM  
PIN- 783128.

7: MANIR ZAMAN  
S/O- MONJIL HUSSAIN  
VILL.- FULERCHAR PART-III  
P.O. FULERCHAR  
DIST. SOUTH SALMARA MANKACHAR  
ASSAM  
PIN- 783135.

8: SAMIAL ISLAM  
S/O- SAYED ALI SARKAR  
VILL.- BHIMAPARA  
P.O. HATSINGMARI  
DIST. SOUTH SALMARA MANKACHAR  
ASSAM  
PIN- 783135.

9: BOZLUL BASHID  
S/O- NURUZZAMAN SEK  
VILL. AND P.O. HATSINGMARI  
DIST. DHUBRI  
ASSAM  
PIN- 783135

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM, PUBLIC WORKS (ROAD) DEPARTMENT, DISPUR, ASSAM,  
GUWAHATI-6.

2:THE DEPUTY COMMISSIONER

SOUTH SALMARA MANKACHAR  
P.O. HATSINGMARI  
DIST. SOUTH SALMARA MANKACHAR  
ASSAM  
PIN- 783135.

3:THE CIRCLE OFFICER

MANKACHAR REVENUE CIRCLE  
P.O. MANKACHAR  
DIST. SOUTH SALMARA MANKACHAR  
ASSAM  
PIN- 783131.

4:THE EXECUTIVE OFFICER

FEKUMARI ANCHALIK PANCHAYAT  
FEKUMARI  
DIST. SOUTH SALMARA MANKACHAR  
ASSAM  
PIN- 783131

**Advocate for the Petitioner** : MR. S B LASKAR

**Advocate for the Respondent** : GA, ASSAM

**BEFORE  
HONOURABLE MR. JUSTICE SUMAN SHYAM**

**ORDER**

**28.08.2023**

Heard Mr. S. B. Laskar, learned counsel for the writ petitioners. Also heard Ms. S. Sarma, learned Government Advocate, Assam appearing for the respondent Nos.2, 3 and 4. Mr. B. Gogoi, learned Standing Counsel, PWD, Assam is present on behalf of respondent No.1.

The writ petitioners claim to be in occupation of plots of land over which they are running their shops, which according to the petitioners, were allotted to them by the Fekumari Anchalik Panchayat. The petitioners have also claimed that they are paying tax to the Fekumari Anchalik Panchayat in respect of their shop rooms. Aggrieved by the notice dated 19.08.2023 issued by the Circle Officer, Mankachar Revenue Circle giving "24 hours" time to some of the

petitioners asking them to vacate the land failing which, they will be evicted, the instant writ petition has been filed apprehending adverse action in the matter.

Mr. Laskar submits that the plot of land in question is apparently required for construction of Mankachar Bus Stand but there is no demarcation of the land required for construction of the said Bus Stand till today. Notwithstanding the same, eviction notices have been issued in an arbitrary manner, giving only "24 hours" time to vacate the shops. Mr. Laskar further submits that the petitioners have been running their shops over the land in question for earning their livelihood and supporting their families. Therefore, the impugned action on the part of the district administration is wholly arbitrary and illegal.

Ms. S. Sarma, learned Govt. Advocate, Assam, on the other hand, submits that no application for demarcation of land has been made by the petitioners. As such, the basic ground urged in this writ petition is wholly untenable.

Similar is the stand of the learned Standing Counsel, PWD.

Be that as it may, if the petitioners are in fact occupying the plot of land for running their shops by paying taxes to the Fekumari Anchalik Panchayat in respect of which money receipts issued under sub-Rule 6 of Rule 4 and Rule 52(3) of the Assam Panchayat Rules have also been annexed to the writ petition, it *prima-facie* appears that, if not a clear title, the petitioners may have a semblance of right to continue in occupation of the land until such time they are evicted by following the due process of law. As such, if the petitioners are sought to be evicted on the ground that the land is required for construction of a Bus Stand, it is reasonable to contend that first the authorities must demarcate the area of land which is required for the purpose.

As such, without expressing any opinion on the claims and counter-claims of the parties, this writ petition stands disposed of by granting a week's time to the petitioners to file appropriate representation and/or application before the respondent No.2 ventilating their grievance in the matter. If such application is filed by the petitioners along with documentary proof to demonstrate the nature of right, if any, of the petitioners to continue in occupation of the land, the same shall be considered on merit and appropriate order be passed therein. Until such time, the above exercise is complete, the process of eviction of the petitioners from the land in question shall remain suspended. With the above observation the writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**