

GAHC010200412023



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

Case No. : WP(C)/5263/2023

OWAJED ALI AND 10 ORS
S/O LATE UMAR ALI, R/O VILL-BHERBHERI, P.O.-NIZ DHAMDHAMA, P.S.-
BARAMA, DIST-BAKSA, ASSAM

2: KHAIRAT ALI
S/O LATE HASIR ALI
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA
ASSAM

3: RAHMAN ALI
S/O LATE HASIR ALI
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA
ASSAM

4: NAZRUL ISLAM
S/O LATE AKAHN ALI
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA
ASSAM

5: HASEN ALI
S/O LATE SALAM ALI
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA

ASSAM

6: KUDRAT ALI
S/O LATE KASEM
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA
ASSAM

7: ABDUL RAHMAN
S/O LATE KITAB ALI
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA
ASSAM

8: RAFIQUE ALI
S/O ABDUL ALI
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA
ASSAM

9: NOWAJ ALI
S/O LATE ABDUL AJIJ
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA
ASSAM

10: AJIRAN
W/O LATE RAMJAN ALI
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA
ASSAM

11: MAINAL ALI
S/O LATE ISMAIL ALI
R/O VILL-BHERBHERI
P.O.-NIZ DHAMDHAMA
P.S.-BARAMA
DIST-BAKSA

ASSA

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY ITS COMMISSIONER AND SECRETARY, DEPARTMENT
OF REVENUE, GOVERNMENT OF ASSAM, DISPUR, GUWAHATI-6

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
WELFARE OF PLAINS
TRIBES AND BACKWARD CLASS DEPARTMENT
SACHIVALAYA
DISPUR
GUWAHATI-6

3:THE B.T.C.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE B.T.C.
KOKRAJHAR
ASSAM
PIN-783370

4:THE PRINCIPAL SECRETARY
B.T.C.
KOKRAJHAR
ASSAM
PIN-783370

5:THE SECRETARY (REVENUE)
B.T.C.
KOKRAJHAR
ASSAM
PIN-783370

6:THE DEPUTY COMMISSIONER
BAKSA
P.O. AND DIST-BAKSA
ASSAM
PIN-781346

7:THE ADDITIONAL DEPUTY COMMISSIONER (REVENUE)
BAKSA
P.O. AND DIST- BAKSA
ASSAM
PIN-781346

8:THE CIRCLE OFFICER
BAGANPARA REVENUE CIRCLE
BAGANPARA

DIST-BAKSA
ASSAM
PIN-78134

Advocate for the Petitioner : MR. A R SIKDAR

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 13/09/2023

Heard Mr. A. R. Sikdar, 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, Mr. S. Baruah, learned Government Advocate, Assam, appearing for the respondent nos. 6 & 7 and Mr. R.K. Musahary, learned Standing Counsel, BTC, appearing for the respondent nos. 3, 4, 5 & 8. None has appeared for the respondent no. 2.

The writ petitioners herein are admittedly in occupation of '*sarkari*' land situated within the Baksa district, falling under the BTC area. Apprehending eviction from the land under their occupation, the petitioners have approached this Court seeking an order of protection in the line of the direction dated 03/02/2020 issued by the Hon'ble Supreme Court of India in SLP(C) No. 2121/2020, arising out of the judgement and order dated 09/12/2019 passed by the Division Bench of this Court in PIL No. 78/2023.

Mr. Sikdar submits that the apprehended move to evict the petitioners is apparently in terms of the direction issued by the Division Bench on 09/12/2019 in connection with PIL No. 78/2023. Mr. Sikdar, however, submits that in the SLP preferred against the order dated 09/12/2019, the Hon'ble Supreme Court has clearly provided that the claims, if any, of the occupants of the land be examined by the concerned Deputy Commissioner on case to case basis after recording satisfaction in the light of the evidence produced before him by the proceedee, whereafter, appropriate order is required to be passed as per law. Mr. Sikdar submits that following the order of the Supreme Court, writ petitions have been disposed of by this Court by issuing direction upon the concerned authorities to examine the evidence, if any, submitted by the proceedee upon receipt of notice, so as to establish their claim over the land. In support of his above contention, Mr. Sikdar has produced a copy of the order dated

17/08/2023 passed by the learned Single Judge in WP(C) No. 4724/2023.

I have perused the same.

From the order dated 17/08/2023 passed in WP(C) No. 4724/2023, it appears that the learned Single Judge has granted liberty to the writ petitioners in the said proceeding to submit relevant documents pertaining to their claims over the land under their possession before the concerned Deputy Commissioner, who has further been directed to examine the same and pass appropriate order therein.

Mr. R.K. Musahari, learned Standing Counsel, BTC, has submitted in his usual fairness that he would have no objection if the present writ petition is also disposed of with a direction of similar nature.

In view of the above and considering the materials available on record, this Court is of the opinion that a similar view is required to be adopted in the present case as well. As such, the instant writ petition is being disposed of by granting four weeks time to the petitioners to submit individual representation, along with the supporting documents, before the District Commissioner, Baksa, in support of legitimacy of their claim over the land under their occupation.

If such representation, along with supporting documents, are submitted by the petitioners individually within four weeks from today, the same be examined on merits, on case to case basis and thereafter, the concerned District Commissioner may pass appropriate order in the matter, in accordance with law.

Until such time, the aforesaid exercise is completed, *status quo* as regards the possession of the petitioners in respect of the land under their possession shall be maintained.

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

JUDGE

sukhamay

Comparing Assistant