

GAHC010228732023



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

Case No. : WP(C)/6130/2023

JOYCHAN CH. DAS AND 2 ORS.
S/O- JUGAL CHANDRA DAS, R/O- VILL.- BICHIMARI, P.S. AND P.O.
FAKIRAGRAM, DIST. KOKRAJHAR, BTR, ASSAM

2: SANJAY KR. DAS
S/O- LATE MANORANJAN DAS
R/O- VILL.- BICHIMARI
P.S. AND P.O. FAKIRAGRAM
DIST. KOKRAJHAR
BTR
ASSAM

3: PRAFULLA DAS
S/O- LATE SANANDA DAS
R/O- VILL.- BICHIMARI
P.S. AND P.O. FAKIRAGRAM
DIST. KOKRAJHAR
BTR
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE DEPARTMENT OF
REVENUE AND DISASTER MANAGEMENT DEPARTMENT, GOVERNMENT
OF ASSAM, DISPUR, GHY-781006.

2:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY ITS SECRETARY LAND
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
BODOFA NWGWR
BTC SECRETARIAT
KOKRAJHAR (BTR)
ASSAM

3:THE DISTRICT COMMISSIONER
KOKRAJHAR DISTRICT
KOKRAJHAR
ASSAM

4:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT (ROADS)
KOKRAJHAR RURAL ROADS DIVISION
KOKRAJHAR (BTR)
ASSAM

5:THE CIRCLE OFFICER

KOKRAJHAR REVENUE CIRCLE
DIST. KOKRAJHAR (BTR)
ASSAM

Advocate for the Petitioner : MR. B J MUKHERJEE

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

16.10.2023

Heard Mr. S. Biswas, learned counsel for the petitioners. Also heard Ms. G.

Hazarika, learned Standing Counsel, Revenue Department, Assam appearing for the respondent No.1, Mr. B. Choudhury, learned Standing Counsel, BTC authorities, appearing for the respondent No.2 and Mr. D. Nath, learned Senior Govt. Advocate, Assam appearing for the respondent Nos.3, 4 and 5.

The petitioners herein claim to be the owners in possession of private patta land situated by the side of Rupsi PWD road at Kokrajhar. The petitioners have come to know that for the purpose of widening of the PWD road, the authorities are proposing to acquire parts of the adjacent land. The grievance of the

petitioners is that instead of acquiring the land by following the due process of law, the PWD is trying to encroach upon their land thus depriving the petitioners of their valuable assets.

Mr. Biswas, learned counsel for the petitioners submits that only the petitioner No.3 has been served with a notice asking him to appear and submit land documents for the purpose of acquisition of the land. However, the other parties have not yet been formally intimated of such acquisition although the process of widening of the road is under progress. Under the circumstances, the petitioners are seeking an interim order of protection of their rights over the land.

Mr. D. Nath, learned Senior Govt. Advocate, Assam submits that the PWD would not disturb the possession of the petitioners over their private patta land without following the due process of law and therefore, the apprehension expressed in the writ petition is wholly unfounded.

The learned Standing Counsel, Revenue Department and the learned Standing Counsel, BTC have also extended similar submission in this case.

Since it is the admitted position of fact that widening of PWD road is going on in that area and considering the stand taken by the learned departmental authorities that the PWD would not encroach upon any land without following the due process of law, I am of the considered opinion that this matter can be disposed of at the stage of motion hearing by making certain observations and directions.

As such, this writ petition stands disposed of by providing that if the respondents are in need of any land for widening of the road and if the land belonging to the petitioners is deemed necessary in any manner, then the same shall be

acquired by following the due process of law and after serving prior individual notices in writing upon each of the petitioners. Prior to completion of the said process, the petitioners' possession over the land shall not be disturbed.

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

JUDGE

Comparing Assistant