

GAHC010244152023



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

Case No. : WP(C)/6318/2023

HAHIRAM DAS AND 21 ORS.

S/O- LATE HATARU DAS, R/O- VILL.- BOGIBARI, P.O. HAHARA, P.S.
KHETRI, DIST. KAMRUP(M), ASSAM, PIN- 782402.

2: PRADIP DAS

S/O- LATE HRIDAL DAS
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

3: BHOGESWAR TALUKDAR

S/O- LATE KAMALA KANTA TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

4: HARIHAR BHARALI

S/O- LATE RAMESWAR BHARALI
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

5: ROBIN TALUKDAR

S/O- LATE AMATI TALUKDAR
R/O- VILL.- BOGIBARI

P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

6: PRAHLAD TALUKDAR
S/O- LATE DINOBANDHU TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

7: GOBINDA TALUKDAR
S/O- LATE GAJENDRA TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

8: BISWANATH TALUKDAR
S/O- LATE DHARMESWAR TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

9: BHAGOWAN THAKURIA
S/O- LATE SARUCHARAN THAKURIA
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

10: MANTU TALUKDAR
S/O- LATE BIREN TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)

ASSAM
PIN- 782402.

11: MOHAN CHETRI
S/O- LATE KULBAHADUR CHETRI
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

12: UDHAB DEKA
S/O- LATE NARAYAN DEKA
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

13: DANDESWAR TALUKDAR
S/O- LATE NAURAM TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

14: SHEKHAR JYOTI TALUKDAR
S/O- SRI SUREN TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

15: JAGDISH TALUKDAR
S/O- LATE NAURAM TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

16: GOBIN DEKA
S/O- LATE BHAKTIRAM DEKA
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

17: ABHIJIT TALUKDAR
S/O- SRI PRAHLAD TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

18: MAHESH DAS
S/O- SRI RAJEN CH. DAS
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

19: JYOTISH TALUKDAR
S/O- SRI BHOGESWAR TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

20: BINOY KUMAR DAS
S/O- LATE DHARJYARAM DAS
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

21: KANAK PATHAK
S/O- LATE BINOD PATHAK
R/O- VILL.- BOGIBARI

P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402.

22: PRABHAT TALUKDAR
S/O- LATE HARKUMAR TALUKDAR
R/O- VILL.- BOGIBARI
P.O. HAHARA
P.S. KHETRI
DIST. KAMRUP(M)
ASSAM
PIN- 782402

VERSUS

THE DEPUTY COMMISSIONER AND 4 ORS
KAMRUP (M), ASSAM, HENGRABARI, GUWAHATI

2:THE CIRCLE OFFICER

SONAPUR REVENUE CIRCLE
SONAPUR
KAMRUP(M).
PIN-782402

3:THE CHIEF ENGINEER
PWD (R)
AMBARI
GUWAHATI -25
KAMRUP (M)
ASSAM

4:BISWESWAR KALITA
S/O- LATE CHENIRAM KALITA

VILL- BOGIBARI

P.O- HAHARA

P.S- KHETRI

DIST- KAMRUP(M)
ASSAM
PIN-782402

5:KHAGEN DAS

S/O- LATE RAJAT DAS

VILL- BOGIBARI

P.O- HAHARA

P.S- KHETRI

DIST- KAMRUP(M)

ASSAM

PIN-782402

6:THE STATE OF ASSAM

REPRESENTED BY THE SPECIAL COMMISSIONER AND SECRETARY TO
THE GOVT. OF ASSAM

PWRD

DISPUR

GHY-06

Advocate for the Petitioner : MR. A K SHARMA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

19.10.2023

Heard Mr. B. D. Das, learned senior counsel assisted by Mr. A. K. Sharma, learned counsel appearing for the writ petitioners. Also heard Mr. J. Handique, learned Govt. Advocate, Assam appearing for the respondent Nos.1 and 2 and Mr. B. Choudhury, learned Standing Counsel, PWD, Assam appearing for the respondent Nos.3 and 6.

The petitioners herein are the villagers of Bogibari village of Kamrup(M) District, Assam. As per the case projected in the writ petition, sanction was received for construction of a village road from Bogibari road to Kalang Kopili FPCs office and the funds for construction of the road has also been sanctioned by the

respondent No.6. Although the work order has been issued to the contractor, the construction work could not be undertaken due to the obstruction created by the respondent Nos.4 and 5 who have allegedly encroached upon a part of the Government land by erecting bamboo fencing and are refusing to remove the fencing despite instruction issued by the administration.

Mr. Das submits that if the construction of the road is not completed without further delay, the funds available for the work will lapse thereby causing serious prejudice to the interest of the petitioners and the public at large. The learned counsel for the petitioner has also invited the attention of this Court to the notice dated 24.08.2023 issued by the Circle Officer, Sonapur Revenue Circle i.e. the respondent No.2 herein directing the private respondents to remove the encroachment but he submits that thereafter no further action has been taken in the matter till today. Aggrieved thereby, the instant writ petition has been filed.

Mr. Handique, learned Govt. Advocate, Assam submits that the writ petition can be disposed of by this Court by directing the concerned authorities to take appropriate action in the matter as may be permissible under the law. The petitioners' counsel is also agreeable to such an order.

In view of the above, without expressing any opinion on the merit of the case, this writ petition is being disposed of with a direction upon the respondent No.2 to take appropriate action in the matter, after giving an opportunity of being heard to the respondent Nos.4 and 5. If it is found that due to the illegal encroachment of Government road the project work has been stalled, it will be open for the respondents to proceed in the matter in accordance with law. Action as permissible in law be taken, as expeditiously as possible, but not later

than six weeks from the date of receipt of a certified copy of this order.

With the above observation, the Writ Petition stands disposed of.

JUDGE

Comparing Assistant