

GAHC010308492019



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

Case No. : Cont.Cas(C)/10/2020

SACHIN PATOWARY AND 7 ORS.

S/O- JAGADISH PATOWARY, R/O- RANGAPARA UNDER NAMONIGAON
GAON PANCHAYAT, P.S.- RANGAPARA, DIST.- SONITPUR, ASSAM, PIN
CODE- 784505.

2: ARUP KUMAR CHOUDHURY

S/O- LT. JITENDRA NATH CHOUDHURY

R/O- RANGAPARA UNDER NAMONIGAON GAON PANCHAYAT

P.S.- RANGAPARA

DIST.- SONITPUR

ASSAM

PIN CODE- 784505.

3: SURAJ SANGRAM

S/O- LT. HARIHAR KHATIK

R/O- RANGAPARA UNDER NAMONIGAON GAON PANCHAYAT

P.S.- RANGAPARA

DIST.- SONITPUR

ASSAM

PIN CODE- 784505.

4: NIRAJ JAISWAL

S/O- DILIP JAISWAL

R/O- RANGAPARA UNDER NAMONIGAON GAON PANCHAYAT

P.S.- RANGAPARA

DIST.- SONITPUR

ASSAM

PIN CODE- 784505.

5: SATISH JAISWAL

S/O- RAJKUMAR JAISWAL

R/O- RANGAPARA UNDER NAMONIGAON GAON PANCHAYAT

P.S.- RANGAPARA

DIST.- SONITPUR

ASSAM
PIN CODE- 784505.

6: RATNESH CHOUDHURY
S/O- LT. BALESHWAR CHOUDHURY
R/O- RANGAPARA UNDER NAMONIGAON GAON PANCHAYAT
P.S.- RANGAPARA
DIST.- SONITPUR
ASSAM
PIN CODE- 784505.

7: RAJESH CHOUDHURY
S/O- LT. BALESHWAR CHOUDHURY
R/O- RANGAPARA UNDER NAMONIGAON GAON PANCHAYAT
P.S.- RANGAPARA
DIST.- SONITPUR
ASSAM
PIN CODE- 784505.

8: PRAMOD CHOWDHARY
S/O- LT. KEDRANATH CHOWDHARY
R/O- RANGAPARA UNDER NAMONIGAON GAON PANCHAYAT
P.S.- RANGAPARA
DIST.- SONITPUR
ASSAM
PIN CODE- 784505

VERSUS

MANVENDRA PRATAP SINGH AND 2 ORS.
THE DEPUTY COMMISSIONER, O/O. THE DEPUTY COMMISSIONER,
MAHATMA GANDHI ROAD, MAHABHAIRAB, TEZPUR, ASSAM, PIN CODE-
784001.

2: SURJYA KAMAL BORAH
THE CIRCLE OFFICER
CHARIDUAR REVENUE CIRCLE
DHEKERI GAON
ASSAM 784102.

3: BUDHEN PEGU
OFFICER-IN-CHARGE
RANGAPARA POLICE STATION
RANGAPARA
ASSAM
PIN CODE- 784103

For the Petitioner(s) : Ms. N. Deka, Advocate
: Mr. S. K. Chakma, Advocate

For the Respondent(s) : Mr. R. Dhar, Standing Counsel

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 17.10.2023

1. The instant contempt application has been initiated by the Petitioners herein for willful and deliberate violation of the order dated 04.12.2019 passed in WP(C) No.8966/2019 whereby this Court had directed that status quo be maintained till the next date.

2. It is the case of the Petitioners herein that pursuant to the order dated 04.12.2019, the said order was duly communicated on 05.12.2019 to the Respondents herein but the Respondent No.2 in willful and deliberate violation to the order passed by this Court had carried out the demolition as well as the eviction proceedings in spite of the status quo order passed by this Court. It reveals that pursuant to the filing of the instant contempt application, this Court had issued notice.

3. An affidavit-in-opposition has been filed by the Respondent No.2 wherein the allegations made in the contempt application have been denied. It was the specific stand taken by the Respondent No.2 that the Petitioners did not serve any certified copy of any order passed by this Court dated 04.12.2019 for maintaining status quo before the Office of the Circle Officer or before the Office of the Deputy Commissioner, Sonitpur, Tezpur by any individual or group. Further to that, it was also mentioned that the demolition was started on

04.12.2019 and completed by late noon of 05.12.2019. It was also mentioned that the instant contempt proceedings is purely baseless and not maintainable because no certified copy of the order passed by this Court was served upon the Respondent No.2 on 04.12.2019 and 05.12.2019 on which date the eviction took place in the larger interest of the general population of Rangapara.

4. The Respondent No.1 had also filed an affidavit-in-opposition which is similar in content to the affidavit-in-opposition filed by the Respondent No.2. In the said affidavit, it was further mentioned that on 05.12.2019 itself, the possession was handed over by the Respondent No.2 to the Assistant Engineer, PWD, Sonitpur Rural Roads Division, Biswanath Chariali.

5. The Respondent No.3 had also filed an affidavit-in-opposition wherein it was mentioned that he was not present at the Rangapara Police Station on 05.12.2019 as he had gone to Barrackpore, West Bengal for a training course and returned to his station at night of 05.12.2019. It was also mentioned in the said affidavit-in-opposition that on 05.12.2019 at evening, one of the junior staffs of the Police Station received one application from the Secretary of the Nandini Social Welfare Society wherein the official seal of the Officer In-Charge of Rangapara Police Station was put as a receipt. It was mentioned that the application was not accompanied with any Court order and more particularly with the order dated 04.12.2019 passed in WP(C) No.8966/2019. It was further mentioned that on 06.12.2019 morning at around 5:30 AM, the Circle Officer, Chariduar Revenue Circle along with labourers etc. arrived at Rangapara with a view to clean the debris of eviction done under his command at Thana Tinali on 04.12.2019 and 05.12.2019 and also to clean the half demolished structure left by the occupants of the houses before the busy school rush and office hours to avoid traffic congestion on the road. It was further mentioned that the eviction

was completed by the Circle Officer on 05.12.2019 and the site was handed over to the requiring Department PWD on the same day for construction of the railway fly over. The forces were deputed on request of the Circle Officer from maintaining law and order and nobody knew about the order passed by this Court.

6. It is further seen from the records that the Petitioners have filed a combined affidavit-in-reply to all the affidavits filed by the Respondent Nos. 1, 2 and 3 wherein it was again reiterated that on 05.12.2019 itself, the order passed by this Court dated 04.12.2019 was served upon the Respondents.

7. I have heard the learned counsels for the parties. This Court finds it relevant at this stage to take note of that a Compact Disk has been enclosed as Annexure-2 to the contempt application. Ms. N. Deka, the learned counsel appearing on behalf of the Petitioners submitted that the video footage which have been recorded in the said Compact Disk would show that the certified copy of the order was served upon the Respondent No.2. During the course of hearing, this Court had the opportunity of looking into the contents of the CD. From the contents of the CD, it was not discernible as to whether the paper which was submitted to the Respondent No.2 was a certified copy of the order. It could not also be seen from the said footage as to whether there was any demolition continued thereafter.

8. Mr. R. Dhar, the learned counsel appearing on behalf of the contemnors further submitted that in the meantime, the Petitioners have also received their compensation and as such nothing further survives in the instant proceedings. The learned counsel for the Petitioners also admits that certain compensation has been received by the Petitioners.

9. This Court after hearing the learned counsels for the parties and after perusing the materials on record is of the opinion that as the questions involved in the instant contempt proceedings are seriously disputed questions of facts and further to that the evidence placed on record is not convincing to show that the Respondent No.2 had received the certified copy of the order prior to the demolition being carried out, the continuation of the instant contempt proceedings would not be in the interest of justice.

10. Accordingly, the instant contempt proceedings stands dropped.

JUDGE

Comparing Assistant