

GAHC010006362024



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

Case No. : WP(C)/130/2024

REEMA CHOUDHURY AND 2 ORS.
W/O- RAMKRISHNA CHOUDHURY,
VILL- PANCHARATNA,
P.O.- GOBINDAPUR,
DIST.- GOALPARA, ASSAM.

2: DHARMRAJ SINGH YADAV
S/O- LT. JAGGU SINGH YADAV
VILL- PANCHARATNA
P.O.- GOBINDAPUR
DIST.- GOALPARA
ASSAM.

3: SABITRI BARAI
W/O- LT. RAM NATH BARAI
VILL- PANCHARATNA
P.O.- GOBINDAPUR
DIST.- GOALPARA
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE DISTRICT COMMISSIONER
GOALPARA
P.O.- BALADMARI
DIST.- GOALPARA
ASSAM

PIN- 783121.

3:THE ASSISTANT SETTLEMENT OFFICER
BALIJANA REVENUE CIRCLE
GOALPARA
PO- BALADMARI
DIST.- GOALPARA
ASSAM
PIN- 783121.

4:THE CIRCLE OFFICER
BALIJANA REVENUE CIRCLE
GOALPARA
PO- BALADMARI

DIST.- GOALPARA
ASSAM

PIN- 783121.

5:THE SUPERINTENDING ENGINEER
PWD ROAD
GOALPARA AND SOUTH SALMARA ROAD DIVISION
GOALPARA
PO- BALADMARI

DIST.- GOALPARA
ASSAM

PIN- 783121.

6:THE DISTRICT ROAD SAFETY COMMITTEE
GOALPARA
REPRESENTED BY THE DISTRICT COMMISSIONER
GOALPARA

PO- BALADMARI

DIST.- GOALPARA
ASSAM

PIN- 783121

Advocate for the Petitioner : MR. S ISLAM

Advocate for the Respondent : SC, REVENUE

Linked Case : WP(C)/137/2024

SAIFUL ISLAM
S/O- LATE AZIZUL HOQUE

VILL- PANCHARATNA

P.O.- GOBINDAPUR

DIST.- GOALPARA
ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GUWAHATI- 781006.

2:THE DISTRICT COMMISSIONER
GOALPARA
PO- BALADMARI
DIST.- GOALPARA
ASSAM

PIN- 783121.
3:THE ASSISTANT SETTLEMENT OFFICER
BALIJANA REVENUE CIRCLE
GOALPARA
PO- BALADMARI
DIST.- GOALPARA
ASSAM
PIN- 783121.

4:THE CIRCLE OFFICER
BALIJANA REVENUE CIRCLE
GOALPARA
PO- BALADMARI
DIST.- GOALPARA
ASSAM

PIN- 783121.
5:THE SUPERINTENDING ENGINEER
PWD ROAD
GOALPARA AND SOUTH SALMARA ROAD DIVISION
GOALPARA
PO- BALADMARI
DIST.- GOALPARA
ASSAM

PIN- 783121.
6:THE DISTRICT ROAD SAFETY COMMITTEE
GOALPARA
REPRESENTED BY THE DISTRICT COMMISSIONER
GOALPARA
PO- BALADMARI
DIST.- GOALPARA
ASSAM

PIN- 783121.

Advocate for : MR. S ISLAM
Advocate for : SC
REVENUE appearing for THE STATE OF ASSAM AND 5 ORS

**BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH**

O R D E R

10.01.2024.

Heard Mr. S. Islam, learned counsel appearing on behalf of the petitioners. Mr. N. Goswami, learned standing counsel, Revenue Department appears on behalf of respondent Nos.2, 3, 4 & 6, Mr. B. Choudhury, learned standing counsel, PWD (Roads) appears on behalf of respondent No.5 and Mr. S. Dutta, learned Government Advocate appears on behalf of respondent No.1.

(2) Both these petitions are taken up together for final disposal at the motion stage itself, taking into account the challenge so made. It reveals from records that the petitioners herein

are aggrieved by the notices issued by the Assistant Settlement Officer, Balijana Revenue Circle in Goalpara District bearing No.B.J.C.-13/2020/1058, dated 27.12.2023.

(3) Various aspects of the matter has been argued by the learned counsel for the petitioners as regards the illegalities committed by the respondent authority in issuing the impugned notices. But amongst the many, one aspect which is very pertinent is that the said notices have been issued by the Assistant Settlement Officer, Balijana Revenue Circle in Goalpara District, who had no authority to do so.

(4) The question therefore arises as to whether a notice under Rule 18(1) or Rule 18(2) can be issued by the Assistant Settlement Officer, more so when the Settlement Rules makes it very clear that notices under Rule 18(1) and Rule 18(2) can be issued either by the Deputy Commissioner or by the Sub-Divisional Officer or Circle Officer or Circle Officer attached. If that be so, neither the Settlement Officer nor the Assistant Settlement Officer have been empowered as per the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886 to issue such notice.

(5) Taking into account the above, as notices have been issued by an authority not competent to do so, the impugned notices so far as issued against the petitioners in both the petitions bearing No.B.J.C.-13/2020/1058, dated 27.12.2023 are set aside and quashed.

(6) Mr. S. Islam, learned counsel appearing on behalf of the petitioners submits that the respondent authorities are taking steps on the basis of the said notices to evict the writ petitioners.

(7) In view of the order passed quashing the impugned notices, this Court directs Mr. N. Goswami as well as Mr. S. Dutta, learned counsel appearing on behalf of the respondents to forthwith inform the respondent authorities not to take any action on the basis of the notices bearing No.B.J.C.-13/2020/1058, dated 27.12.2023, in so far as the petitioners.

(8) A copy of the instant order shall also be served upon Mr. N. Goswami as well as Mr. S. Dutta, learned counsel appearing on behalf of the respondents, during the course of the day,

for effective compliance.

(9) This Court however makes it clear that setting aside and quashing of the said notices bearing No.B.J.C.-13/2020/1058, dated 27.12.2023, against the petitioners shall not preclude the respondent authorities to take steps as per the provisions of law and more particularly, through the officials who are duly authorized to do so.

(10) With the above observation and direction, the Writ Petitions are disposed of.

JUDGE

Comparing Assistant