

GAHC010133162024



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

Case No. : WP(C)/3504/2024

MANINDRA CHANDRA DAS AND 9 ORS
S/O LATE JATINDRA MOHAN DAS, R/O VIVEKANANDA ROAD, HOUSE NO.
156, WARD NO. 26, SILCHAR TOWN, P.O.-SILCHAR, DIST- CACHAR, ASSAM,
PIN-788007

2: SMTI. JHUMU LASKAR (DAS)
W/O MANINDRA CHANDRA DAS
R/O VIVEKANANDA ROAD
HOUSE NO. 156
WARD NO. 26
SILCHAR TOWN
P.O.-SILCHAR
DIST- CACHAR
ASSAM
PIN-788007

3: ALOK KUMAR DEY
S/O LATE JATINDRA MOHAN DEY
R/O VIVEKANANDA ROAD
WARD NO. 26
SILCHAR TOWN
P.O.-SILCHAR
DIST- CACHAR
ASSAM
PIN-788007

4: SRIKANTA NATH
S/O LATE GOPAL CHANDRA NATH
R/O VIVEKANANDA ROAD
WARD NO. 26
SILCHAR TOWN
P.O.-SILCHAR
DIST- CACHAR
ASSAM

PIN-788007

5: RABINDRA KISHORE BISWAS
S/O LATE RANENDRA KISHORE BISWAS
R/O VIVEKANANDA ROAD
WARD NO. 26
SILCHAR TOWN
P.O.-SILCHAR
DIST- CACHAR
ASSAM
PIN-788007

6: RAMENDRA NARANG BISWAS
S/O LATE RANENDRA KISHORE BISWAS
R/O VIVEKANANDA ROAD
WARD NO. 26
SILCHAR TOWN
P.O.-SILCHAR
DIST- CACHAR
ASSAM
PIN-788007

7: RATHIN CHANDRA DEY
S/O LATE RANENDRA CHANDRA DEY
R/O VIVEKANANDA ROAD
WARD NO. 26
SILCHAR TOWN
P.O.-SILCHAR
DIST- CACHAR
ASSAM
PIN-788007

8: AMITAVA NATH
S/O LATE RANENDRA CHANDRA DEY
R/O VIVEKANANDA ROAD
WARD NO. 26
SILCHAR TOWN
P.O.-SILCHAR
DIST- CACHAR
ASSAM
PIN-788007

9: NARAYAN CHANDRA DEB
S/O LATE ROMAN BEHARI DEB
R/O VIVEKANANDA ROAD
WARD NO. 26
SILCHAR TOWN
P.O.-SILCHAR

DIST- CACHAR
ASSAM
PIN-788007

10: BIJAN BEHARI DEY
S/O LATE RANENDRA CHANDRA DEY
R/O VIVEKANANDA ROAD
WARD NO. 26
SILCHAR TOWN
P.O.-SILCHAR
DIST- CACHAR
ASSAM
PIN-78800

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY ITS SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF REVENUE, DISPUR, GUWAHATI-6

2:COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF PWD (ROAD)
DISPUR
GUWAHATI-6

3:DEPUTY COMMISSIONER
CACHAR
SILCHAR
PIN-788001

4:EXECUTIVE ENGINEER PWD
SILCHAR AND UDHARBOND TERRITORIAL ROAD DIVISION
SILCHAR-78800

Advocate for the petitioner(s): Mr. SK Ghosh

Advocate for the respondent(s): Ms. M Barman

Ms. S Sarma

Mr. A Bhattacharjee

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

05.08.2024

Heard Mr. SK Ghosh, the learned counsel appearing on behalf of the petitioners. Mr. A Bhattacharjee, the learned counsel appears on behalf of the respondent No.1, Ms. S Sarma, the learned counsel appears on behalf of the respondent Nos.2 and 4 and Ms. M Barman, the learned counsel appears on behalf of the respondent No.3.

2. The petitioners herein have approached this Court seeking a direction upon the respondent authorities for demarcating the lands of the petitioners with the land of the Vivekananda Road, Silchar, before taking any further steps for construction of the drain. In addition to that the petitioners have sought for adequate compensation, if the land of the petitioners is acquired in the name of widening of the Vivekananda Road, Silchar. The petitioners have also sought for a direction upon the respondent authorities not to encroach the patta lands of the petitioners in the name of widening of the Vivekananda Road, Silchar without following the due procedure of law regarding acquisition and requisition of the patta land.

3. This Court vide order dated 17.07.2024, directed the counsel representing the respondent No.3 to obtain necessary instruction(s) as to whether the land of the petitioners have been taken over for the construction work and as to whether any demarcation was carried out.

4. Ms. M Barman, the learned counsel representing the respondent No.3 has placed before this Court an instruction dated 03.08.2024 issued by the

Additional District Commissioner Silchar, wherein it has been mentioned that the construction work for drain was undertaken after proper demarcation by the LR Staff of the Office of the Assistant Settlement Officer, Sadar Circle, Silchar and with the support of the local committee of the area. In that regard, the learned counsel has also referred to the communications issued by the Assistant Settlement Officer, Silchar and the Executive Engineer, PWRD to the Additional Deputy Commissioner, Cachar, Silchar as well as to the District Commissioner, Cachar, Silchar, respectively, stating *inter alia*, that due demarcation was carried out. It was also mentioned in the said communications that the LR Staff of the office of the Assistant Settlement Officer had demarcated the Vivekananda Road and ascertained the Government Khas land pertaining to 2nd RS Government Khas Dag No.3321, 3322, 3323, 4279, 4280 and 4281. It was also mentioned in the said instruction dated 03.08.2024 that the representations so submitted by the petitioners as enclosed to the writ petition could not be traced out in the concerned Branch despite sincere efforts. It was further mentioned that the said representations do not bear any date of receipt nor any official seal for that matter and as such could not be traced out.

5. Under such circumstances, this Court enquired with Mr. SK Ghosh, the learned counsel appearing on behalf of the petitioners as regards the representations which have been enclosed as Annexure-5 and 6 to the writ petition, *inasmuch as*, the said representations appear to be typed copies without enclosing the originals. The originals or for that matter the photocopy of the original representations, however, was not produced.

6. This Court taking into account the instruction(s) which is kept on record and marked with the letter 'X', do not find any good ground for entertaining the instant writ petition under Article 226 of the Constitution, taking into account

that the respondent authorities have categorically mentioned that the lands were demarcated and thereupon steps were taken for construction of the drain.

7. Be that as it may, this Court, however, observes that in the circumstance, any lands of the petitioners are taken, the petitioners would be at liberty to approach the concerned authority and in that regard the concerned authority shall duly take appropriate steps for redressal of the grievances.

8. Writ petition, accordingly, stands disposed of. Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant