

GAHC010133622022



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

**Case No. : WP(C)/4699/2022**

HAMIDA KHATUN AND 14 ORS  
WIFE OF KABUL UDDIN  
RESIDENT OF VILLAGE-MAISHALDANGA PART-II  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135

2: SHAHERA KHATUN  
WIFE OF NEDU SHEIKH  
RESIDENT OF VILLAGE-BAMUNPARA  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135.

3: HABIJA KHATUN  
  
WIFE OF FOYZAL HOQUE  
RESIDENT OF VILLAGE-MAISHALDANGA PART-II  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135.

4: SADDAM HUSSAIN  
SON OF NEDU SK  
RESIDENT OF VILLAGE-BAMUNPARA  
PS-MANKACHAR  
DISTRICT- SOUTH SALMARA MANKACHAR  
PIN-783135.

5: REJIA KHATUN  
WIFE OF MURTUZ ALI  
RESIDENT OF VILLAGE-CHATIBHUI  
PS-MANKACHAR  
DISTRICT- SOUTH SALMARA MANKACHAR

PIN-783135

6: MOMOTAZ BEGUM  
WIFE OF HANIF ALI  
RESIDENT OF VILLAGE-MAISHALDANGA PART-II  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135

7: HOBIBUR RAHMAN  
SON OF FOYZAL HOQUE  
RESIDENT OF VILLAGE-MAISHALDANGA PART-II  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135

8: JOSHMINA KHATUN  
WIFE OF AMIR ALI  
RESIDENT OF VILLAGE-CHATIBHUI  
PS-MANKACHAR  
DISTRICT- SOUTH SALMARA MANKACHAR  
PIN-783135

9: SELIMA BEGUM  
WIFE OF HOBIBUR RAHMAN  
RESIDENT OF VILLAGE-MAISHALDANGA PART-II  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135

10: HOBIBUR RAHMAN  
SON OF FOYZAL HOQUE  
RESIDENT OF VILLAGE-MAISHALDANGA PART-II  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135

11: NEDU SHEIKH  
SON OF CHANDU SHEIKH  
RESIDENT OF VILLAGE-BAMUNPARA  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135

12: KOBUL UDDIN  
SON OF SHAHER ALI  
RESIDENT OF VILLAGE-MAISHALDANGA PART-II  
PS-MANKACHAR

DISTRICT-SOUTH SALMARA  
PIN-783135

13: KAMAL HUSSAIN  
SON OF SAHER ALI  
RESIDENT OF VILLAGE-MAISHALDANGA PART-II  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135

14: EUNUS ALI  
SON OF OPIYEL HOQUE  
RESIDENT OF VILLAGE-ASSAMKATA  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-783135

15: ROUSHANA BEGUM  
WIFE OF JOMER ALI  
RESIDENT OF VILLAGE-ASSAMKATA  
PS-MANKACHAR  
DISTRICT-SOUTH SALMARA  
PIN-78313

VERSUS

THE STATE OF ASSAM AND 6 ORS  
REPRESENTED BY COMMISSIONER AND SECRETARY  
DEPARTMENT OF REVENUE  
GOVERNMENT OF ASSAM  
DISPUR

2:DEPUTY COMMISSIONER CUM DISTRICT MAGISTRATE  
DISTRICT-SOUTH SALMARA MANKACHAR  
HATSINGIMARI

3:ADDITIONAL DISTRICT MAGISTRATE (MAGISTRACY BRANCH)  
DISTRICT-SOUTH SALMARA MANKACHAR  
HATSINGIMARI

4:ASSISTANT SETTLEMENT OFFICER  
MANKACHAR REVENUE CIRCLE  
MANKACHAR

5:CIRCLE OFFICER  
MANKACHAR REVENUE CIRCLE  
MANKACHAR

6:OFFICER IN CHARGE  
MANKACHAR POLICE STATION  
MANKACHAR

7:OFFICER IN CHARGE  
KALAPANI OUTPOST  
MANKACHAR POLICE STATION  
KALAPANI  
DISTRICT- SOUTH SALMARA MANKACHA

For the Petitioner(s) : Mr. K. K. Dey, Advocate  
: Mr. V. K. Barooah, Advocate

For the Respondent(s) : Ms. N. Bordoloi, Government Advocate  
: Mr. S. Baruah, Government Advocate

**BEFORE**  
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 29.07.2024**

Heard Mr. K. K. Dey, the learned counsel appearing on behalf of the Petitioners and Ms. N. Bordoloi, the learned Government Advocate appears on behalf of the Respondent No.1. I have also heard Mr. S. Baruah, the learned Government Advocate appears on behalf of the Respondent Nos. 2 to 7.

2. The Petitioners herein have approached this Court alleging that the Respondent No.7 is interfering with their possession without following due process.

3. From a perusal of the materials on record, it is seen that the Petitioners herein were granted allotment of various plots of land by the Government of Assam. It is also seen that the lands which were allotted to the Petitioners are situated at a distance of 4 to 5 Kms. from the State of Meghalaya.

4. It is also noticed that there were certain alleged encroachments by third parties to the land for which proceedings under Section 144 under the Code of Criminal Procedure, 1973 was initiated but subsequently relaxed by the Executive Magistrate.

5. The grievance of the Petitioners in the instant writ petition primarily is that the Respondent No.7 who is the Officer-in-Charge of Kalapani Out Post under Mankachar Police Station had verbally informed the Petitioners to vacate the land and as such the Petitioners have submitted representation to the concerned authorities including the District Commissioner, South Salmara, Mankachar however, no action was taken. It is under such circumstances, the instant writ petition has been filed.

6. Pursuant to the filing of the instant writ petition, this Court vide an order dated 30.07.2022 while issuing notice directed that the Petitioners shall not be evicted from the land under their occupation pertaining to Dag No. 94/78 without serving prior notice upon them giving 15 days clear time to respond. The said interim order has been extended from time to time.

7. Today, when the matter has been taken up, Mr. S. Baruah, the learned Government Advocate for the Respondent Nos. 2 to 7 submits on instructions issued by the Additional Deputy Commissioner, South Salmara, Mankachar that the claim of the Petitioners could not be verified as all documents of allotment of 2019 were seized by the CM's Special Vigilance Cell, Assam in connection with CM Vigilance P.S. Case No.05/2021. It has also been mentioned that the Circle Officer/Assistant Settlement Officer have been instructed not to carry out eviction without prior notice as directed by this Court.

8. I have heard the learned counsel for the Petitioners as well as the learned

counsels for the Respondents.

9. There is no affidavit-in-opposition filed by the Respondent authorities in spite of the notice having been issued in the year 2022. There is no denial to the certificates of allotment which have been issued to the Petitioners enclosed to the writ petition as Annexure-1 to Annexure-15. From these documents, it is apparent that the Petitioners herein had been granted allotment by the Deputy Commissioner, Hatsingimari.

10. Under such circumstances, it is the opinion of this Court that if any steps for eviction of the Petitioners are to be taken, the same has to be taken by following the due process as stipulated in the Settlement Rules framed under the Assam Land and Revenue Regulations, 1886. In that view of the matter, the Respondent No.7 who is the Officer-in-Charge cannot act independently to disturb the possession of the Petitioners.

11. Accordingly, the instant writ petition therefore stands disposed of thereby directing the Respondents not to disturb the possession of the Petitioners without following the mandate as specified under the provisions of law. It is further made clear that the Respondent No.7 independently has no authority or jurisdiction to interfere with the possession of the Petitioners.

12. With above observations and directions, the instant petition stands disposed of.

**JUDGE**

**Comparing Assistant**