

GAHC010153912024



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

Case No. : WP(C)/3937/2024

RASID AHMED LASKAR ALIAS RASHID AHMED LASKAR
S/O NAZIM UDDIN LASKAR
RESIDENT OF 213, JUTHANG BASTI, LANKA, PO AND PS LANKA, DIST
HOJAI, ASSAM 782446

VERSUS

THE NATIONAL HIGHWAYS AUTHORITY OF INDIA AND 6 ORS
REPRESENTED BY ITS CHAIRMAN, SECTOR 10. DWARKA NEW DELHI
110075

2:THE PROJECT DIRECTOR

NATIONAL HIGHWAYS AUTHORITY OF INDIA
PROJECT IMPLEMENTATION UNIT
HAFLONG
NEAR DSA COMPLEX
DHOBI LANE
HAFLONG
DIST DIMA HASAO
ASSAM 788819

3:THE STATE OF ASSAM
THROUGH THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR GUWAHATI 781006

4:THE COMMISSIONER

PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
ASSAM PANJABARI GUWAHATI 781037

5:THE DISTRICT COMMISSIONER

HOJAI ASSAM

6:UDALI ANCHALIK PANCHAYAT
REPRESENTED BY ITS MEMBER SECRETARY CUM ADDITIONAL
DISTRICT COMMISSIONER HOJAI
ASSAM

7:THE BLOCK DEVELOPMENT OFFICER

UDALI DEVELOPMENT BLOCK CUM MEMBER
UDALI ANCHALIK PANCHAYAT BAMUNGAON
LANKA
DIST HOJAI
ASSAM 78243

For the petitioner (s) : Mr. R. Mazumdar, Advocate

For the respondent (s) : Mr. P. Handique, Advocate
Ms. R. Bora, Advocate
Mr. J. Handique, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

07.08.2024

Heard Mr. R. Mazumdar, the learned counsel appearing on behalf of the petitioner. Ms. R. Bora, the learned counsel appears on behalf of the respondent Nos.1 & 2; Mr. P. Handique, the learned counsel appears on behalf of the respondent Nos.3, 4, 6 & 7 and Mr. J. Handique, the learned counsel appears on behalf of the respondent No.5.

2. Taking into account the scope of the writ petition, this Court is of the opinion that the ends of justice would be met if the instant writ petition is disposed of at the motion stage itself. Accordingly, this Court duly heard the learned counsels appearing on behalf of the parties.

3. The petitioner herein was allotted a plot of land by the Udali Anchalik Panchayat for a period of one year w.e.f. 1st of July, 2023 to 30th June, 2024. It has been submitted that there has been an extension granted although no document is brought on record. On 27.07.2024, a notice was issued by the respondent No.2 under The Control of National Highway (Land and Traffic) Act, 2002 (for short, 'the Act of 2002') whereby it was informed to the petitioner that on periodical inspection of the highway land, it was found that the petitioner is in unauthorized occupation, and as such, a notice was issued asking the petitioner to submit his representation within three days and also to indicate a place of hearing. Pursuant to the said notice, the petitioner submitted the representation on 29.07.2024. The petitioner apprehends that without giving any hearing to the petitioner, the respondent authorities may take action to evict the petitioner and it is under such circumstances, the instant writ petition has been filed.

4. Mr. P. Handique, the learned counsel appearing on behalf of the P&RD Department submits that the petitioner's right over the land has already ceased taking into account that the allotment order which was issued and made a part of the representation, expired on 30.06.2024, and as such, the petitioner has no conceivable right to remain in possession or in unauthorized occupation of the land.

5. Ms. R. Bora, the learned counsel appearing on behalf of the respondent Nos.1 & 2 submitted that the petitioner is in unauthorized occupation of right of way, and as such, the said notice has been issued.

6. This Court upon hearing the learned counsels appearing on behalf of

the parties and taking into account the Act of 2002 which provides a due procedure as to how an unauthorized occupant can be removed. The petitioner having already been issued a notice a representation have been duly submitted by the petitioner in pursuance thereto is of the opinion that interest of justice would be met if the petitioner is given a hearing prior to passing any order under the said Act of 2002.

7. Under such circumstances, this Court asked the learned counsels appearing on behalf of the petitioner as well as the respondent Nos.1 & 2 as to when the petitioner could appear before the respondent No.2. It has been submitted that the petitioner would appear on 12.08.2024 at 10:30 a.m. before the respondent No.2 for the hearing.

8. Under such circumstances, this Court therefore directs the respondent No.2 to carry out the hearing on 12.08.2024 at 10:30 a.m. or at such other time as may be convenient to the respondent No.2 and thereupon proceed in accordance with the provisions of the Act of 2002.

9. It is directed that till the decision is not taken disposing of the petitioner's representation, the respondent No.2 shall not take any steps for eviction of the petitioner.

JUDGE

Comparing Assistant