

GAHC010157862024



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

Case No. : WP(C)/4009/2024

ABU TAHER AND 6 ORS
SON OF LATE DULA MIYA, RESIDENT OF VILLAGE- PALAHJURI, P.O.
GORUKHUTI, P.S. MORIGAON, DISTRICT- MORIGAON, ASSAM, PIN- 782106

2: SULTAN AHMED
SON OF LATE DULA MIYA
RESIDENT OF VILLAGE- PALAHJURI
P.O. GORUKHUTI
P.S. MORIGAON
DISTRICT- MORIGAON
ASSAM PIN- 782106

3: ABDUL KASHEM
SON OF LATE DULA MIYA
RESIDENT OF VILLAGE- PALAHJURI
P.O. GORUKHUTI
P.S. MORIGAON
DISTRICT- MORIGAON
ASSAM PIN- 782106

4: ABDUL ALI
SON OF LATE ABDUL ROUF
RESIDENT OF VILLAGE- 2 NO. BORCHALA
P.O. GORUKHUTI
P.S. LAHARIGHAT
DISTRICT- MORIGAON
ASSAM PIN- 782106

5: ABDUL SATTAR
SON OF LATE ABDUL GOFUR PATARI
RESIDENT OF VILLAGE- PALAHJURI
P.O. GORUKHUTI P.S. MORIGAON
DISTRICT- MORIGAON
ASSAM PIN- 782106

6: JOYNAL ABEDIN
SON OF LATE ABED MULLA
RESIDENT OF VILLAGE- PALAHJURI
P.O. GORUKHUTI
P.S. MORIGAON
DISTRICT- MORIGAON
ASSAM PIN- 782106

7: RUHUL AMIN
SON OF LATE ABDUL GOFUR
RESIDENT OF VILLAGE- PALAHJURI
P.O. GORUKHUTI
P.S. MORIGAON
DISTRICT- MORIGAON
ASSAM PIN- 78210

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI- 781006

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM PANJABARI GUWAHATI- 781037

3:THE DEPUTY COMMISSIONER
MORIGAON
DISTRICT- MORIGAON
ASSAM PIN- 782105

4:THE CHIEF EXECUTIVE OFFICER
MORIGAON ZILLA PARISHAD
DISTRICT- MORIGAON
ASSAM PIN- 782105

5:THE PRESIDENT
LAHARIGHAT ANCHALIK PANCHAYAT
DISTRICT- MORIGAON
ASSAM PIN- 782105

6:THE EXECUTIVE OFFICER
LAHARIGHAT ANCHALIK PANCHAYAT
DISTRICT- MORIGAON
ASSAM PIN- 782105

7:THE SECRETARY
LAHARIGHAT ANCHALIK PANCHAYAT
DISTRICT- MORIGAON
ASSAM PIN- 782105

8:MD. MAMTAZ ALI
SON OF LATE SOBOR ALI
RESIDENT OF VILLAGE- NAGABANDHA
P.O. AND P.S. LAHORIGHAT
DISTRICT- MORIGAON
ASSAM PIN- 78210

Advocate for the Petitioner : M K BORAH, MS. P. KASHYAP

Advocate for the Respondent : GA, ASSAM, SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 12.08.2024

Heard Mr. M. K. Borah, learned counsel for the petitioners, who submits that the State respondents has settled the running of the Garukhuti Tiniali Daily Market with the respondent No. 8, as per the settlement order dated 30.06.2023, which was on the petitioners' patta land. Being aggrieved, the petitioners had challenged the same in WP(C) 4290/2023 and this Court had passed a stay order on 11.09.2023, directing the respondents not to operate the market through the respondent No. 8.

2. The petitioners' counsel submits that WP(C) 4290/2023 is still pending before the Court. He submits that as the settlement period of the market has expired, the State respondents have allowed the respondent No. 8 to run the market by extending his lease period, pursuant to the notification dated 29.06.2024, issued by the Principal Secretary to the Government of Assam,

P&RD Department and in this respect, they have issued a receipt dated 18.06.2024, showing that Rs.3,702/- had been taken from the respondent No. 8, as kist money for two months.

3. The petitioners' counsel accordingly prays that the extension given to the respondent No. 8, for running the Garukhuti Tiniali Daily Market for two months, from 18.06.2024 till 17.08.2024, should be set aside.

4. Ms. J. Bora, learned counsel appearing on behalf of Mr. S. Dutta, learned counsel for the P&RD Department submit that as the petitioners have not made any representation, prior to approaching this Court, they should first approach the State respondents with their grievances by way of a representation.

5. I have heard the learned counsels for the parties.

6. As can be seen from the order dated 11.09.2023 passed in WP(C) 4290/2023, the issue with regard to the settlement of the Garukhuti Tiniali Daily Market with the respondent No. 8, on the lands claimed by the petitioners is pending in this Court. There is also a stay order, directing that the market shall not be operated by the respondents, which is still in operation till day.

7. In view of the fact that the stay order passed in WP(C) 4290/2023 is still continuing, the respondents cannot and should not give extension to the respondent No. 8 to operate the said market, pursuant to the notification dated 29.06.2024, if at all such extension had been given to the respondent No. 8.

8. As the period of the alleged extension given to the respondent No. 8, in terms of the receipt dated 18.06.2024, is only till 17.08.2024, the present writ petition will be infructuous on 18.08.2024. Further, in the view of this Court, the

issue raised by the petitioners in this case can be decided in WP(C) 4290/2023, inasmuch as, the alleged extension of the settlement order, if any, is only a consequential order. Besides, if there has been any violation of the order dated 11.09.2023 in WP(C) 4290/2023 or in pursuant to the receipt dated 18.06.2024, the same could amount to contempt of Court, for which an appropriate petition can be filed. The above being said, it cannot be said with certainty that there has been any violation of the order dated 11.09.2023 passed in WP(C) 4290/2023.

9. In view of the reasons stated above, this Court is not inclined to keep the present writ petition pending any longer and the same is accordingly closed. However, the petitioners are given the liberty to file a representation before the State respondents, with regard to whether the respondent No. 8 has been given any extension of the settlement of the market, pursuant to the settlement order dated 30.06.2024 and in violation of the order dated 11.09.2024 passed in WP(C) 4290/2023. If any such representation is made, the same should be decided within a week and the result should be communicated to the petitioner.

10. The writ petition is accordingly closed.

JUDGE

Comparing Assistant