

GAHC010216642023



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

Case No. : WP(C)/5683/2023

CHITTA RANJAN GHOSH AND 6 ORS
S/O LATE DOYAMOY GHOSH, R/O WARD NO. 5 LANKA TOWN, P.O. AND
P.S.-LANKA, DIST-HOJAI, ASSAM, PIN-782446

2: HARALAL GHOSH
S/O LATE DOYAMOY GHOSH
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

3: DEWANTI DEVI
W/O RANJEET PRASAD
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

4: INARDEV RAM
S/O LATE SARJOO RAM HARIZAN @ SARYUG RAM
R/O WARD NO. 4 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

5: ANJALI PAUL
S/O LATE NARESH CH. PAUL
R/O VILL-SHILLONG ROAD
WARD NO. 1 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI

ASSAM
PIN-782446

6: BASUDEV PRASAD
S/O LATE BALKUMAR PRASAD
R/O WARD NO. 4 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

7: CHANDRIKA PRASAD
S/O LATE THAKUR PRASAD
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-78244

VERSUS

THE UNION OF INDIA AND 4 ORS
THROUGH THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY
OF RAILWAY, RAIL BHAWAN, NEW DELHI-110001

2: THE GENERAL MANAGER
NF RAILWAY
MALIGAON
GUWAHATI-781011

3: DIVISIONAL RAILWAY MANAGER (WORKS) NF RAILWAY
LUMDING
P.O. AND P.S.-LUMDING
DIST- HOJAI
ASSAM
PIN-782447

4: SENIOR DIVISION ENGINEER (I)
NF RAILWAY
LUMDING
P.O. AND P.S.-LUMDING
DIST-HOJAI
ASSAM
PIN-782447

5: SENIOR DIVISION ENGINEER (C)
NF RAILWAY
LUMDING

P.O. AND P.S.-LUMDING
DIST- HOJAI
ASSAM
PIN-78244

Advocate for the Petitioner : MR. F A HASSAN

Advocate for the Respondent : DY.S.G.I.

Linked Case : WP(C)/5522/2023

DILIP DUTTA AND 15 ORS
S/O LATE SUMANTA DUTTA
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

2: KHOKAN SINGHA
S/O LATE NARAHARI SINGHA
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

3: RINA DEY
W/O LT. ARUN CH. DEY
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

4: BIPUL GHOSH
S/O LATE GAJENDRA GHOSH
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

5: CHHOTELAL THAKUR
S/O LATE SWAMI NATH THAKUR
R/O VILL-PIPAL PUKHURI NO. 2
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

6: JANARDHAN MISHRA
S/O LATE BISHWANATH MISHRA
R/O WARD NO. 4 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

7: PRADIP SINGHA
S/O LATE NEPAL SINGHA
R/O WARD NO. 4 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

8: SUSHIL CH. DEB
S/O LATE DINESH CH. DEB
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

9: JASBINDAR SINGH
S/O LATE SOVA SINGH
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

10: SATYENDRA KUMAR DEY
S/O LATE SURENDRA KR. DEY
R/O VILL- VTC PAS BANDAR
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

11: ARBIND PRASAD
S/O LATE BISHWANATH PRASAD
R/O WARD NO. 4 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

12: BHANTI KOUR
W/O LATE MILKA SINGH
R/O WARD NO. 4 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

13: ALOK CH. SEAL
S/O ATUL CH. SEAL
R/O VILL-BALIRAM GAON
P.O. AND P.S.-JAMUNAMUKH
DIST-HOJAI
ASSAM
PIN-782428

14: MANOJ DAS
S/O LATE SURJYAMOHAN DAS
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

15: RAJ KUMAR MISHRA
S/O LATE SHIOJEE MISHRA
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

16: LAKHENDRA RAM
S/O LATE BECHU RAM HARIZAN
R/O WARD NO. 5 LANKA TOWN
P.O. AND P.S.-LANKA
DIST-HOJAI
ASSAM
PIN-782446
VERSUS

THE UNION OF INDIA AND 4 ORS
THROUGH THE SECRETARY TO THE GOVERNMENT OF INDIA
MINISTRY OF RAILWAY
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2:THE GENERAL MANAGER

NF RAILWAY

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3:DIVISIONAL RAILWAY MANAGER (WORKS)

NF RAILWAY

LUMDING

P.O. AND P.S.-LUMDING

DIST-HOJAI

ASSAM

PIN-782447

4:SENIOR DIVISION ENGINEER (I)

NF RAILWAY

LUMDING

P.O. AND P.S.-LUMDING

DIST-HOJAI

ASSAM

PIN-782447

5:SENIOR DIVISION ENGINEER (C)

NF RAILWAY

LUMDING

P.O. AND P.S.-LUMDING

DIST-HOJAI

ASSAM

PIN-782447

Advocate for : MD E AHMED

Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

Linked Case : WP(C)/5312/2023

RUPAN MAZUMDER

SON OF BINOD BIHARI MAJUMDER

RESIDENT OF VILLAGE- BAMUNGAON

P.O. AND P.S.- LANKA

DIST- HOJAI

ASSAM

PIN- 782446.

VERSUS

THE UNION OF INDIA AND 4 ORS
THROUGH THE SECRETARY TO THE GOVERNMENT OF INDIA

MINISTRY OF RAILWAY
RAIL BHAWAN

NEW DELHI- 110001.

2:THE GENERAL MANAGER
NF RAILWAY

MALIGAON

GUWAHATI- 781011.

3:DIVISIONAL RAILWAY MANAGER (WORKS) NF RAILWAY
LUMDING

P.O. AND P.S.- LUMDING

DISTRICT- HOJAI
ASSAM

PIN- 782447.

4:SENIOR DIVISION ENGINEER(I) NF RAILWAY
LUMDING

P.O. AND P.S.- LUMDING

DISTRICT- HOJAI
ASSAM

PIN- 782447.

5:SENIOR DIVISION ENGINEER(C) NF RAILWAY
LUMDING

P.O. AND P.S.- LUMDING

DISTRICT- HOJAI
ASSAM

PIN- 782447.

Advocate for : MR. R MAJUMDAR

Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 30.05.2024

Heard Mr. R. Majumdar, learned counsel for the petitioners. Also heard Mr.K. Gogoi, learned CGC in WP(C)/5683/2023; Ms. R. Devi, learned CGC in WP(C)/5312/2023 and Ms. B. Sarma, learned CGC in WP(C)/5522/2023 appearing for the respondents.

2. These writ petitions have been filed by the writ petitioners, who are claimed to be in temporary occupation of the railway land situated at Lanka in the district of Hojai. The petitioners are running several businesses on the strength of licences for temporary occupation of land executed by and between the Railways and the persons. These licences came to be renewed from time to time and the licences in respect of the petitioners are expired on 31.03.2023.

3. The learned counsel for the petitioners submits that they are carrying on their business and their livelihood and the railway authorities have been renewing their licenses from time to time. It is submitted that since it is their livelihood is in question, the railway authorities should permit them to continue in the said land until the said land is actually required for the purposes of construction of any railway buildings or platforms. It is submitted by the learned counsel for the petitioner that as per information available, they are merely erecting a boundary wall at this stage. However, if the boundary wall is permitted to be erected, then the petitioners are likely to suffer as there are ingress and egress to their place of livelihood will be seriously affected. It is submitted by the learned counsel for the petitioner that the railway authorities may proceed for construction of the boundary wall leaving a passage for ingress

and egress to the petitioners' shops or business establishments. He further submits that as and when the land is required for the railway authorities for due construction of land and buildings, the same will be vacated in terms of subject to the provisions of Clause 20 of the licence executed by and between the Railways.

4. It is submitted that as per Clause 20, 30 (thirty) days notice should be granted for vacating. There is also a provision for taking over all structures or buildings erected on the land by the licensee at a fair value by the railway authorities. He, therefore, submits that either the railway authorities permit the petitioners to continue their businesses without seeking to evict them till such time the Railway authorities requires that portion of the land, where the petitioners businesses are established. In the alternative, the railway authorities may purchase the structures or the features erected by the petitioners at a fair value.

5. The submissions of the learned counsel for the petitioners are strongly disputed by the learned CGCs appearing for the respondents. It is submitted that the license agreement is very categorical and the period of expiry is clearly mentioned in the licence agreement. The license agreement stood expired on 31.03.2023. No further extension or renewal was carried on.

6. The learned counsel for the Railways submits that the land is indeed required for construction of Phase I of 'Amrit Bharat Stations'. The tender has already been floated. LoI has already been issued on 27.07.2023. But for the occupation of the land by the petitioners, the work intended to be carried on could not be carried on. He, therefore, submits that the writ petition be devoid of any merit and the same should be dismissed and the petitioners should vacate the land immediately.

7. Learned counsels for the parties have been heard. Pleadings on record have been carefully perused.

8. It is seen that while issuing notice there was an interim protection granted directing both the parties to maintain *status quo*. The said *status quo* order is continuing till date. There is no dispute that the license agreement has expired with effect from 31.03.2023. There is also no dispute that the petitioners are in occupation of the land belonging to the railways. The only prayer made by the learned counsel for the petitioners at this stage is for enlargement of further time, enabling them to make alternative arrangements to vacate the railway land or in the alternative takeover the building and fixtures of the petitioners erected within the railway land by the railway authorities at a fair price.

9. Having heard the learned counsel for the parties, this Court is of the view that the petitioners have not been able to refer to any provisions of law or of the agreements to contest that their right of occupation in the land belonging to the railway should continue. They have fairly submitted that the license had come to an end on 31.03.2023.

10. Under such circumstances, this Court is of the view that the railway authorities are within their liberty to invoke the provisions of Clause 20 of the agreement to purchase the building and features erected by the petitioners at the fair price. If any such decision is taken by the railways, then the petitioner shall be put to notice within a period of 15 (fifteen) days from today. In the alternative, the petitioners shall vacate these premises within a period of 60 (sixty) days from today. The Court is of the view that the period of 60 (sixty) days is a reasonable time to permit the writ petitioners to relocate from the railway land and make alternative arrangements for their business establishments and other places.

- 11.** In terms of the above, the writ petition stands closed. The petitioners will positively vacate the land and hand over the premises to the Railways after expiry of 60 (sixty) days from today, which is on 01.08.2024.
- 12.** Writ petitions, are accordingly, disposed of in terms of the above.
- 13.** Interim orders, passed earlier, will extend till 31.07.2024.

JUDGE

Comparing Assistant