

GAHC010249792022



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

Case No. : WA/380/2022

ARABINDA BAISHYA AND 29 ORS
S/O BABUL BAISHYA

2: MAHENDRA PURBEY
S/O RAMBRIKSH PURBEY

3: SUMITRA MARAK
D/O MELARAN SANGMA

4: CHANDANA DAS DUTTA
W/O UTPAL DUTTA

5: DIPAK KR KALITA
S/O PRABIN CH. KALITA

6: ANIMA KALITA
D/O BHABEN KALITA

7: MEHERZAN BEGUM
D/O LT. JALALUDDIN

8: RANU BHARALI
D/O LT. SATISH KALITA

9: LAISHRAM RAMILA CHANU
D/O LT. IBO SINGH LAISHRAM

10: AFJAL HUSSAIN
S/O AJIM UDDIN LASHKAR

11: ABDUL BARIK AHMED
S/O SOBAHAN MONDAL

12: LAKSHMI THAKURIA DAS

D/O LALIT THAKURIA

13: RUPOM SAIKIA
S/O NIRANJAN SAIKIA

14: NILIMA DUTTA
D/O SUREN DAS

15: BHUPEN BARUAH
S/O GANESH BARUAH

16: KADIR HUSSAIN
S/O JAINAL HUSSAIN

17: KAMAL BAYAN
S/O LOHIT BAYAN

18: AMIRON NESSA
S/O KHUSAL ALI

19: LAKHESHWAR NATH
S/O KHIROD MOHAN NATH

20: DEIJI BEGUM

D/O KAMINI CH. DAS

21: JAYANTA DAS
S/O DEBEN DAS

22: ANOWAR HUSSAIN
PRESIDENT AMAR PRAYAS GOSTHI)

23: DIPIKA DEVI
D/O AJAY KR. SARMA

24: DEWANTI DEVI
D/O NATHUNI SAH

25: RABINDRA DEKA
S/O SARAT CH. DEKA

26: SARAT CH DEKA
S/O GAMBHIR CH DEKA

27: SANTA KALITA
D/O RATNESWAR KALITA

28: RAFIKUL ISLAM
S/O SADEK ALI

29: MINAL ALI
S/O HANIF ALI

30: SATYENDRA KR. ROY
S/O TILAK ROY
ALL ARE RESIDENTS OF BISHNU NAGAR
UDAY NAGAR
DAKHIN GAON
GUWAHATI
POST OFFICE-KAHILIPARA
POLICE STATION- DISPUR

DISTRICT- KAMRUP (METRO)
ASSAM
PIN-78101

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY COMMISSIONER AND SECRETARY, DEPTT. OF HOME, ASSAM,
DISPUR, GUWAHATI, PIN- 781006.

2:THE COMMISSIONER AND SECRETARY
MINES AND MINERALS DEPTT.
DISPUR
GUWAHATI
PIN- 781006.

3:THE DEPUTY COMMISSIONER
KAMRUP (METROPOLITAN)
HENGRABARI
GUWAHATI
PIN- 781036.

4:THE CIRCLES OFFICER
DISPUR REVENUE CIRCLE
BASISTHA
GUWAHATI
PIN- 781028

Advocate for the Petitioner : MR. K N CHOUDHURY, P. DEKA,MR D KALITA,MR. G
HUSSAIN

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

Linked Case : WA/370/2022

KESHAB BARMAN AND 153 ORS.
S/O LATE KOKIL BARMAN

2: HAREKRISHNA SARMA
S/O LATE KRIPANATH SARMA

3: ARUN KUMAR GHOSH
S/O MOHAN LAL GHOSH

4: BIPUL DEKA
S/O HAREN DEKA

5: ARUN RAJBONGSHI
S/O KRISHNA RAJBONGSHI

6: RAJIB DEORI
S/O LT. MOTILAL DEORI

7: MANIK SAIKIA
S/O LT. CHANDRA KANTA SAIKIA

8: LOLIT CH DEORI
S/O NABIN DEORI

9: PRANAB JYOTI BORDOLOI
S/O DAMODAR BORDOLOI

10: HEMANTA KALITA
S/O LT DHARMA KALITA

11: SUBHA DEVI
D/O CHANDRA LAL SARMA

12: PARITOSH BARMAN
S/O MUNINDRA BARMAN

13: RABIN SARMA
S/O BASANTA SARMA

14: MAHIBUL ISLAM
S/O FATENUR ALI

15: RUP KUMAR DEORI
S/O PRASANTA DEORI

16: HEMANTA KR KALITA
S/O LT CHANDRA KANTA KALITA

17: SABITA DEKA
D/O HARI DEKA

18: GOPESH SARMA
S/O LT BASANTA SRAMA

19: PUSHPANJALI DUTTA
D/O MUNIN DUTTA

20: SHAMBHU KUMAR
S/O RAMSAGAR ROY

21: JOYMATI BARMAN
S/O LT TILAK BARMAN

22: KUMUD CHANDRA DAS
S/O BHADRESWAR DAS

23: RAMESH MEDHI
S/O JOGESHWAR MEDHI

24: LAKHI DEKA
S/O LT KATHA RAM DEKA

25: RAJKUMAR MANDAL
S/O LT SANTOSH MANDAL

26: GIRIN MAHANTA
S/O DHIRESWAR MAHANTA

27: DEBEN DAS
S/O LT SATYA DAS

28: PRADIP DHAR
S/O ADHIR DHAR

29: DIPEN DAS
S/O NARMESWAR DAS

30: DINESH HALOI
S/O BAKUL HALOI

31: HIREN KR BAISHYA
S/O LT MADHAB CHANDRA BAISHYA

32: HANSADHAR SARMA
S/O LT HARENDRA SARMA

33: GOBINDA BORO
S/O DANDIRAM BORO

34: BOLO NATH
S/O RAMESH NATH

35: HARI DEV SARMA
S/O HARENDRA SARMA

36: MALA SAHA
W/O LT. ANIL SAHA

37: MANORANJAN SARMA
S/O TARANI KANTA SRAMA

38: CHAMPADUTTA BISWAS
W/O LT SUBHASH BISWAS

39: UDAY CHAKRABORTY
S/O DIPAK CHAKRABORTY

40: SONARAM DAS
S/O LT KHARGESWAR DAS

41: LAXMI PAUL
W/O BIBHASH RANJAN PAUL

42: MOUMITA DEORI
S/O SANJIB DEORI

43: NRIPEN MEDHI
S/O RATNAKAR MEDHI

44: JOYMATI TUDU
W/O PARAMESH HEMBROM

45: PRANAB NATH
S/O SURJYA KANTA NATH

46: PRADIP DAS
S/O MUHIRAM DAS

47: AMASHREE BORO
W/O DOYARAM BORO

48: PABITRA DAS
S/O LT NARMESWAR DAS

49: MANTU KALITA
S/O CHANDRA KALITA

50: GUNUN BORDOLOI
S/O LT SOMDHAR BORDOLOI

51: JITU HIRA
S/O BANESWAR HIRA

52: MOON MOON SARMA BARUA
W/O PRANJIT BARUA

53: PABITRA SANGMAI
S/O BOGEN SANGMAI

54: PALLABI DAS
W/O MUN THAKURIA

55: RAJESH KARMAKAR
S/O GOLAP KARMAKAR

56: BIMALA PRASAD RABHA
D/O LT GOJEN CHANDRA RABHA

57: RABINDRA NATH TALUKDAR
S/O PARAMANANDA TALUKDAR

58: BIDYUT DOWARAH
S/O DEVA KR DOWARAH

59: AJAY BARUAH
S/O NABA BARUAH

60: RANJAN KR KAKATI
S/O LT KHAGEN KAKATI

61: AKAN BALA MEDHI KALITA
S/O RAJANI KALITA

62: ANITA BORO GOYARY
W/O LATE THANESWAR GOYARY

63: LACHIT MUCHAHARI
S/O JITEN MUSHAHARI

64: INDE KHATTAIYA DEORI
S/O LT DEBANANDA DEORI

65: PUJI KANTA DEORI
S/O RUPRAM DEORI

66: SITAL MALLIK
C/O ABHIJIT MALIK

67: TARANI BORO
S/O KANDRO BORO

68: DEBARAJ KOCH
S/O HARIDAS KOCH

69: KHAGEN HAZARIKA
S/O LAMBODHAR HAZARIKA

70: NIBARAN CH ROY
S/O BEDELA CH ROY

71: PANCHAM RAY
S/O BUDU RAY

72: JITEN DEORI
S/O SONORAM DEORI

73: PHULESWAR SONOWAL
S/O SANJAY SONOWAL

74: PUNIRAM PATHAK
S/O LT BHABANANDA PATHAK

75: RANJIT DEORI
C/O TARUN CH DEORI

76: GOPAL CHANDRA BISWAS
S/O LT MUKUNDA BISWAS

77: JADAV NATH
S/O LT GOTIRAM NATH

78: AMRIT SARENGI
S/O MRIGANKA SARENGI

79: BHADRESWAR RAY
S/O BHOLARAM RAY

80: UTTAM KR GHOSH
S/O SUDHANGSHU GHOSH

81: HARESH PHUKAN

S/O KUL PHUKAN

82: GAGAN CHANDRA DEKA
S/O LT HOLIRAM DEKA

83: RANJIT MAJUMDAR
S/O ASHUTOSH MAZUMDAR

84: GANESH BARMAN
S/O LT DINESH BARMAN

85: BILESWAR BORO
S/O LT SAYARAM BORO

86: JUGANTA DEORI
S/O BHUPEN DEORI

87: KALINDRA KUMAR BAISHYA
S/O SARAT BAISHYA

88: MINATI DEY
W/O LATE MUNINDRA DEY

89: MERY DEORI
W/O LATE BISWAJIT DEORI

90: SIBASARAN BARMAN
S/O LT SURENDRA BARMAN

91: AMRITA SAHU
W/O JHARILAL SAHU

92: GAJEN CH DAS
S/O DANDIRAM DAS

93: GOPAL RAI
S/O MAN BAHADUR RAI

94: KANAK DEKA

S/O BIPIN CHANDRA DEKA

95: NIRANJAN NATH
S/O DHANIRAM NATH

96: MALAYA DEKA
W/O LATE MUKUNDA RAM DEKA

97: GASATI GOYARI
S/O THANESWAR GOYARI

98: PHULO DEVI
W/O LATE RAM CHANDRA PASWAN

99: ARUP KAKATI
S/O LT KHAGEN KAKATI

100: BHAKTA MAZUMDAR
S/O KARTIK MAZUMDAR

101: MINU RAJBONGSHI
W/O MOBJAL RAJBONHGSHI

102: MRIDUL KALITA
S/O BALI KANTA KALITA

103: DIPALI MANDAL
W/O LATE KANAI MANDAL

104: BHUBNESWAR BORO
S/O KASTURAM BORO

105: MONI MANDAL
S/O RABI MANDAL

106: BINOD KALITA
S/O NABIN KALITA

107: SUNIMA DAS
W/O LATE SIDANANDA DAS

108: GANESH SARKAR
S/O NIBARAN SARKAR

109: SUMATI DAS
W/O LATE CHANDRA DEB NATH

110: PRASANTA DUTTA

S/O LOLIT CHANDRA DUTTA

111: BHIM MAZUMDAR
S/O LT KARTIK MAZUMDAR

112: RAMEN DEKA
S/O BAIKUNTHA DEKA

113: SUREN KALITA
S/O SARBESWAR KALITA

114: RITU BARMAN
S/O SUDARSAN BARMAN

115: SUMI BHUYAN ROY
W/O PROMOD ROY

116: SANJIB DEORI
S/O SAKHIDHAR DEORI

117: MAHADEV SARMA
S/O KRISHNA SARMA

118: JADAV BARMAN
S/O HARESWAR BARMAN

119: DURGESWAR DEORI
S/O BHAGADATTA DEORI

120: BABUL NATH
S/O HARENDRA NATH

121: DHANIRUDDIN ALI
S/O SAYED ALI

122: RAMENDRA BARMAN
S/O RAIMOHAN BARMAN

123: BIMALA NATH
W/O KAMAL KUMAR NATH

124: PRANABJYOTI DEKA
S/O KARRUN CH DEKA

125: KRISHNA KAKATI
S/O NILAMONI KAKATI

126: SANTI NEWAR

W/O AMAR BAHADUR NEWAR

127: KUSHAL DEKA
S/O KULEN DEKA

128: RAJU ALI
S/O GILIMA BEGUM

129: BOLIN PHUKAN
S/O SAMESWAR PHUKAN

130: GAMIR ALI
S/O SAMIR ALI

131: RAFIQUUL HAQUE
S/O SAMSUL HAQUE

132: PAPU NATH
S/O PRAHLAD NATH

133: NURJAHAN BEGUM
W/O SAMSUL HAQUE

134: PRABIN MECH
S/O RABI RAM MECH

135: BHAGWAN CHANDRA RAY
S/O BIKASH RAY

136: BHADRESWAR ADHIKARI
S/O SHYAMAL ADHIKARI

137: GUNESWAR DEORI
S/O LT. GANABAHADUR DEORI

138: PRAMOD CH. SARMA
S/O LT. GOPI KANTA SARMA

139: SONMANI DAS
S/O KAMESH DAS

140: DEEPANWITA DAS
W/O PANKAJ KR. DAS.

141: TULA RAM SWARGIWARI
S/O LT. BALIN RAM SWARGIWARI

142: BINOD PRASAD

S/O RAJBALAM PRASAD

143: PUSPA HARAN SAIKIA
S/O LT. PUHARAM NATH.

144: RAMESWAR BANIA
S/O LT. JAYRAM BANIA

145: HARIPADA BISWAS
S/O GOPAL CHANDRA BISWAS.

146: DHARMESWAR SAIKIA
S/O LT. UMESH SAIKIA

147: SONESWAR RAY
S/O AHARURAM RAY

148: MAHIM CH. DEORI
S/O GAJANANDA DEORI

149: BISHNU MEDHI
S/O SHANKHADHAR MEDHI

150: SUBHASH SARMA
S/O RAJENDRA CH. SARMA.

151: RAJU PATHAK
S/O LT. JOGENDRA PATHAK

152: MENAKA BASUMATARY
D/O DANGCHURAM BASUMATARY

153: BHASKAR JYOTI KALITA
S/O MONARANJAN KALITA

154: SONMANI DAS
S/O KAMESH DAS
ALL ARE RESIDENTS OF DAKHIN GAON
SAUKUCHI
GUWAHATI
POST OFFICE-SAUKUCHI

POLICE STATION- DISPUR

DISTRICT- KAMRUP(METRO)
ASSAM
PIN-781040
VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY
DEPARTMENT OF HOME
ASSAM
DISPUR
GUWAHATI
PIN-781006

2:THE SECRETARY
GOVERNMENT OF ASSAM
DM (L R) DEPARTMENT
DISPUR
GUWAHATI
PIN-781006

3:THE DEPUTY COMMISSIONER
KAMRUP (M)
HENGRABARI
GUWAHATI
PIN-781036

4:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
BASISTHA
GUWAHATI
PIN-781028

For petitioner(s)/appellant(s) : Mr. K. N. Choudhury, Sr. Advocate
Mr. T. Deuri, Advocate

For respondent(s) : Mr. R.K. Bora, Addl. Sr. GA, Assam
Ms. N. Bordoloi, SC, Revenue

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

13.11.2024

(Vijay Bishnoi, CJ)

Of these two writ appeals, WA No. 370/2022 is preferred by the appellants against the judgment and order dated 09.11.2022 passed by the learned Single Judge in WP(C) No. 7159/2022, and WA No. 380/2022 is preferred by the appellants therein

challenging the order dated 17.11.2022 passed by the learned Single Judge in WP(C) 7338/2022.

In WP(C) No. 7159/2022, the writ petitioners/appellants had essentially challenged the General Eviction Notice dated 01.11.2022 and in WP(C) No. 7338/2022, the petitioners/appellants had challenged the General Eviction Notice dated 10.11.2022. By the said two General Eviction Notices, the general public residing over the land covered by Dag No. 1076 of Dakhingaon under Beltola Mouza, Guwahati in the district of Kamrup (M), were directed to vacate the government land within a period of three days from the date of issuance of the said Notice.

The learned Single Judge, after considering the arguments advanced by the rival parties, has disposed of the writ petitions vide the impugned orders dated 09.11.2022 and 17.11.2022, respectively, and has set aside the Eviction Notices dated 01.11.2022 and 10.11.2022 only to the extent of granting three days' time to the appellants to vacate the land occupied by them. The learned Single Judge has directed the respondents to give to the appellants another three weeks' time from the date of the judgment to vacate the land illegally occupied by them, to enable them to make alternative arrangements. The learned Single Judge has further observed that the extension of time given to the appellants for vacating the land would be subject to the condition that the appellants had not already been evicted from the lands occupied by them.

Mr. K. N. Choudhury, learned Senior Counsel appearing for the appellants in WA No. 380/2022 has argued that a Division Bench of this Court, in *Sakek Uddin (Md.) vs. State of Assam & Ors.*, reported in *GLT 2024 (4) 857*, while answering a Reference, has passed the judgment dated 27.06.2024 by holding that prior to initiation of a proceeding under Rule 18(2) of the Settlement Rules, the occupant/possessor of government land has to be issued notice. It is submitted that the notice to the occupants/possessors of the government land has to be individual notice and, considering the judgment of the Division Bench in *Sakek Uddin (Md.)* (supra), a Single

Bench of this Court has already disposed of a writ petition, being WP(C) 3715/2020, vide judgment dated 07.11.2024 directing the respondents to issue individual notices to the alleged encroachers of the government land. It is submitted that these writ appeals can be disposed of in terms of the directions issued by the learned Single Judge in WP(C) 3715/2020, vide judgment dated 07.11.2024.

Learned counsel appearing for the State respondents have fairly conceded that similar directions may be issued to the respondents as have been issued by the learned Single Judge in WP(C) 3715/2020, vide judgment dated 07.11.2024.

In view of the above submissions made by the learned counsel for the parties, these writ appeals are disposed of with the following directions:

- (i) The respondents shall issue fresh individual notices to the appellants/alleged encroachers of the government land in respect of which the General Eviction Notices dated 01.11.2022 and 10.11.2022 had been issued, asking them to show cause as to why they should not be evicted from the government land by taking recourse to Rule 18 of the Settlement Rules. The respondents shall issue such individual notices to the appellants/alleged encroachers within a period of 30 (thirty) days from today.
- (ii) The appellants in the present two writ appeals are at liberty to submit individual replies to the notices to be issued by the respondents, along with documentary evidence, if any, showing cause that they have *bona fide* claim over the plots of land under their occupation and, as such, recourse to Rule 18 of the Settlement Rules is not permissible. Such replies to the individual notices shall be filed by the appellants/alleged encroachers within a period of 15 (fifteen) days from the date of issuance of the individual notices.
- (iii) The District Commissioner, Kamrup (M), shall provide opportunity of hearing to the appellants/alleged encroachers either

personally, or through their authorized representatives and shall, thereupon, pass appropriate speaking orders. The District Commissioner, Kamrup (M) is further directed to allot a particular area in his office for submission of replies by the appellants.

(iv) The District Commissioner, Kamrup (M), upon passing of the speaking order(s), as directed hereinabove, shall notify on the Notice Board of his office about passing of the speaking order(s).

(v) The District Commissioner, Kamrup (M), to complete the exercise, as directed above, within a period of three months from today.

(vi) Until completion of the exercise, as directed above, no coercive measures shall be taken against the appellants.

(vii) It is also made clear that if any of the appellants fail to respond to the notice to be issued under Rule 18 of the Settlement Rules, within the time stipulated above, the respondents shall be free to take action in accordance with law.

(viii) As prayed for by the appellants herein, it is provided that the above directions shall not preclude the right of the appellants to prefer individual applications before the jurisdictional District Commissioner praying for allotment of plot of land by invoking the provisions of the Assam Land Policy, 2019, or any other policy presently holding the field in this connection.

In the event of filing such application by any or all the appellants, the jurisdictional District Commissioner shall take steps for causing due consideration of such applications, independent of the process for removal of encroachment, in terms of the direction Nos. (i) to (vii) passed hereinabove, and shall dispose of such applications expeditiously and strictly in accordance with the provisions of the

Assam Land Policy, 2019, or any other policy presently in vogue in this connection, and communicate the outcome thereof to the appellants.

In the event the jurisdictional District Commissioner is not competent to consider and dispose of the applications under the Assam Land Policy, 2019, he shall take steps for having the applications placed before the competent authority empowered to consider such applications, which authority shall also consider such applications expeditiously and strictly in accordance with the Assam Land Policy, 2019, or any other policy presently in vogue in this connection, and communicate to the appellants the outcome thereof.

Ordered accordingly.

Writ appeals stand disposed of with the above observations and directions.

JUDGE

CHIEF JUSTICE

Comparing Assistant