

GAHC010256522023



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

Case No. : WP(C)/6619/2023

BISWESWAR KALITA AND 3 ORS.
S/O LT. CHENI RAM KALITA @ CHEPTA R/O VIL. BOGIBARI P.O. HAHARA
P.S KHETRI DIST KAMRUP M ASSAM

2: DHARANIDHAR DAS
S/O LT. MONI RAM DAS R/O VIL. BOGIBARI P.O. HAHARA P.S KHETRI DIST
KAMRUP M ASSAM

3: KHAGEN DAS
S/O LT RAJAT DAS R/O VIL. BOGIBARI P.O. HAHARA P.S KHETRI DIST
KAMRUP M ASSAM

4: GURUPRASAD TALUKDAAR
S/O LT HAREN TALUKDAR R/O VIL. BOGIBARI P.O. HAHARA P.S KHETRI
DIST KAMRUP M ASSA

VERSUS

THE STATE OF ASSAM AND 10 ORS
REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT O F ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT ASSAM SACHIVALAYA
DISPUR GUWAHATI 781006

2:THE DISTRICT COMMISSIONER
KAMRUP M
ASSAM

3:THE CIRCLE OFFICER
SONAPUR REVENUE CIRCLE DIST. KAMRUP M ASSAM

4:KALANG KAPILI
A NON GOVERNMENT ORGANIZATION HAVING ITS REGISTERED OFFICE
AT VILL BOGIBARI P.O. HAHARA PS.KHETRI DIST. KAMRUP M ASSAM PIN
782402 REP BY ITS SECRETARY JYOTISH TALUKDAR

5:JYOTISH TALUKDAR
S/O BHOGESWAR TALUKDAR R/O VIL. BOGIBARI P.O. HAHARA P.S
KHETRI DIST KAMRUP M ASSAM

6:BINAY DAS
S/O LT DHAIRJYA RAM DAS R/O VIL. BOGIBARI P.O. HAHARA P.S KHETRI
DIST KAMRUP M ASSAM

7:KANAK PATHAK
S/O LT. BINOD PATHAK R/O VIL. BOGIBARI P.O. HAHARA P.S KHETRI DIST
KAMRUP M ASSAM

8:AMULYA DEKA
S/O SUREN DEKA R/O VIL. BOGIBARI P.O. HAHARA P.S KHETRI DIST
KAMRUP M ASSAM

9:UMESH DAS
S/O LT NARAYAN DAS R/O VIL. BOGIBARI P.O. HAHARA P.S KHETRI DIST
KAMRUP M ASSAM

10:RATAN JAISHI
S/O LT. DADHI JAISHI R/O VIL. BOGIBARI P.O. HAHARA P.S KHETRI DIST
KAMRUP M ASSAM

11:PRABHAT TALUKDAR
S/O LT. HARKUMAR TALUKDAR R/O VIL. BOGIBARI P.O. HAHARA P.S
KHETRI DIST KAMRUP M ASSA

Advocate for the Petitioner : MR. U K DEKA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

06.03.2024

1. Heard Mr. S. Borthakur, learned counsel for the petitioner. Also heard Mr. S. Baruah, learned Government Advocate for the State of Assam representing the respondent Nos. 2 and 3 and Mr. A. K. Sharma, learned counsel for the

respondent Nos. 4 to 11.

2. The petitioners claim to be the owners and recorded pattadars of plots of agricultural land covered by Dag Nos. 250, 312, 321/556, 339/554, 521, 249 of K.P. Patta Nos. 86, 115, 161, 57 and 34 situated in Revenue Village- Bogibari Pather under the Mouza- Sonapur, Kamrup (M).
3. It is the case of the petitioners that without there being any demarcation, the petitioners are sought to be evicted from their plots of land for construction of a road. It is the further case of the petitioners that the same has been done at the behest of private respondents and between them, a title suit is pending. It is also the further case of the petitioners that they will have no objection if their lands are acquired for the purpose of construction of a road, however, that should be by adherence of due procedure of law.
4. Mr. S. Baruah, learned Government Advocate for the respondent State has produced the instruction which he has received from the concerned authority. The version of the State respondents as discernible from the documents and records produced is that a road was to be constructed by the State and the petitioners have encroached some area of land. However, the petitioners have agreed to give the encroached area of land on their own volition for construction of the road, however, when they did not do it, a notice was issued for their eviction.
5. Thus, it is clear from the record that the petitioners claim that their lands are sought to be taken away and it is the claim of the State that the petitioners had encroached the government land. From the record, it is seen that prior to such proposed eviction, the petitioners themselves filed an application before the Circle Officer, seeking demarcation of the land.
6. In the totality of the matter and as agreed to by the learned counsel for the parties, this writ petition is disposed of with the following directions:-

- I. The Circle Officer, Sonapur Revenue Circle, shall demarcate the land in respect of the claim made by the petitioners by following due process and in presence of the petitioners and the private respondent Nos. 4 to 11.
 - II. It is agreed by the parties that they will be able to remain present in the land in question on 20.03.2024 and accordingly, the Circle Officer shall demarcate the land for the purpose of construction of the road.
 - III. If it is found that the road is proposed to be constructed over the private land of the petitioners, the State shall be at liberty to acquire such land by following due process of law.
 - IV. Interim order passed earlier shall continue till such demarcation.
7. In view of the aforesaid, this writ petition stands disposed of.

JUDGE

Comparing Assistant