

GAHC010271632023



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

**Case No. : WP(C)/7078/2023**

RAJESHWAR DAS AND 61 ORS  
AGED ABOUT 71 YEARS  
S/O- LATE PHUKAN DAS

2: MAHENDRA KARMAKAR  
AGED ABOUT 70 YEARS  
S/O- LATE MAHADEV KARMAKAR

3: KALIPAD BISHWAS  
AGED ABOUT 72 YEARS  
S/O- LATE KALACHAN BISHWAS

4: JOGEN KARMAKAR  
AGED ABOUT 66 YEARS  
S/O- LATE THAKURDAS KARMAKAR

5: GOPAL RAI  
AGED ABOUT 80 YEARS  
S/O- LATE KEDARI RAI

6: KHAGEN KARMAKAR  
AGED ABOUT 62 YEARS  
S/O- LATE THAKURDAS KARMAKAR

7: NAREN KARMAKAR  
AGED ABOUT 67 YEARS  
S/O- LATE MAHADEV KARMAKAR

8: RAICHAND BISHWAS  
AGED ABOUT 70 YEARS  
S/O- LATE RAMCHARAN BISHWAS

9: PAGOL MANDAL  
AGED ABOUT 72 YEARS

S/O- LATE BIHARI MANDAL

10: JANTU RAI  
AGED ABOUT 60 YEARS  
S/O- LATE BIPIN RAI

11: NITAI SUTRADHAR  
AGED ABOUT 62 YEARS  
S/O- LATE HARILAL SUTRADHAR

12: NANIGOPAL RAI  
AGED ABOUT 71 YEARS  
S/O- LATE MADHU RAI

13: LITTIL BISHYA  
AGED ABOUT 68 YEARS  
S/O- LATE ANANTA BAISHYA

14: BOLORAM BISHWAS  
AGED ABOUT 69 YEARS  
S/O- LATE NITAI BISHWAS

15: GIRINDRA MANDAL  
AGED ABOUT 60 YEARS  
S/O- LATE KHOKA MANDAL

16: INDRA SARKAR  
AGED ABOUT 61 YEARS  
S/O- LATE HRIDAY SARKAR

17: SANTOSH MANDAL  
AGED ABOUT 60 YEARS  
S/O- LATE BIPIN MANDAL

18: UPEN MANDAL  
AGED ABOUT 70 YEARS  
S/O- LATE KHOKA MANDAL

19: GOPAL SARKAR  
AGED ABOUT 65 YEARS  
S/O- LATE BISHWAMBAR SARKAR

20: JOGESH BASU  
AGED ABOUT 78 YEARS  
S/O- LATE KHETRA MOHAN BASHU

21: SITA NATH SARKAR  
AGED ABOUT 76 YEARS

S/O- LATE DURGACHARAN SARKAR

22: SMTI MINATI RANI MANDAL  
AGED ABOUT 72 YEARS  
D/O- LATE PRANNATH MANDAL

23: GOLAPI BISHWAS  
AGED ABOUT 68 YEARS  
D/O- LATE NIRANANDA BISHWAS

24: REBOTI MANDAL  
AGED ABOUT 60 YEARS  
S/O- LATE DUGACHARAN MANDAL

25: SMTI DRAUPADI MANDAL  
AGED ABOUT 65 YEARS  
W/O- PAGOL MANDAL

26: SMTI PARVATI RAI KARMAKAR  
AGED ABOUT 42 YEARS  
D/O- SRI NEPAL RAI (UN SOUND)  
W/O- SRI ARADHAN KARMAKAR

27: NITYANANDA MANDAL  
AGED ABOUT 40 YEARS  
S/O- LATE GOVINDA MANDAL

28: CHANDRAKANTA MANDAL  
AGED ABOUT 50 YEARS  
S/O- LATE MADAN MOHAN MANDAL

29: RANJOY BISHWAS  
AGED ABOUT 35 YEARS  
S/O OF LATE GOPAL BISHWAS

30: NIMAI MANDAL  
AGED ABOUT 60 YEARS  
S/O- OF LATE SUKHLAL MANDAL

31: SMTI PURNIMA MANDAL  
AGED ABOUT 62 YEARS  
W/O- OF DURGANATH MANDAL  
D/O- RAMCHARAN MANDAL

32: BIREN MANDAL  
AGED ABOUT 48 YEARS  
S/O- OF LATE MADHU MANDAL

33: GOVINDA SARKAR  
AGED ABOUT 50 YEARS  
S/O- OF LATE HARIPAD SARKAR

34: KASHINATH MANDAL  
AGED ABOUT 40 YEARS  
S/O- LATE SANTOSH MANDAL

35: BHEEM MANDAL  
AGED ABOUT 42 YEARS  
S/O- LATE MADAN CHANDRA MANDAL

36: NIVASH MANDAL  
AGED ABOUT 65 YEARS  
S/O- LATE HARIDAS MANDAL

37: NARAYAN SARKAR  
AGED ABOUT 50 YEARS  
S/O- LATE BABULAL SARKAR

38: PRAFULLA SARKAR  
AGED ABOUT 60 YEARS  
S/O - LATE HRIDAY SARKAR

39: BALLAV RAI  
AGED ABOUT 50 YEARS  
S/O - LATE MADHU RAI

40: GOPAL MANDAL  
AGED ABOUT 55 YEARS  
S/O - LATE SABITRI MANDAL

41: NILKAMAL BISHWAS  
AGED ABOUT 40 YEARS  
S/O - LATE EKADASHI BISHWAS

42: TARACHAN MANDAL  
AGED ABOUT 50 YEARS  
S/O- LATE KATHU MANDAL

43: SMTI ALOBALA MANDAL  
AGED ABOUT 50 YEARS  
DAUGHTER-IN-LAW OF  
CHARANI BALA MANDAL

44: SMTI RANU BISHWAS SARKAR  
AGED ABOUT 40 YEARS  
W/O- GOVINDA SARKAR

D/O- LATE BALAI BISWAS

45: DIPEN DAS HIRA  
AGED ABOUT 48 YEARS  
S/O - LATE RAMESH HIRA

46: SMTI SANTI BALA DAS  
AGED ABOUT 65 YEARS  
W/O- RAJESHWAR DAS  
DAUGHTER -IN-LAW OF  
LATE PHUKAN KOSH

47: BIRENDRA MANDAL  
AGED ABOUT 62 YEARS  
S/O - LATE KALABATI MANDAL

48: SMTI PURNIMA MANDAL SARKAR  
AGED ABOUT 50 YEARS  
W/O- DULAL SARKAR  
D/O- LATE GADU MANDAL

49: SMTI DURGA BALA KARMAKAR  
AGED ABOUT 60 YEARS  
W/O- SRI JOGEN KARMAKAR  
DAUGHTER-IN-LAW OF-  
LATE THAKURDAS KARMAKAR

50: SUSHIL MANDAL  
AGED ABOUT 45 YEARS  
S/O - LATE SUDHU MOHAN MANDAL  
GRANDSON OF LATE KALACHAN MANDAL

51: PANKU SARKAR  
AGED ABOUT 40 YEARS  
S/O - LATE GOPAL SARKAR  
GRANDSON OF LATE TRINATH SARKAR

52: NEPAL RAI  
AGED ABOUT 52 YEARS  
S/O- LATE SATISH RAI  
BROTHER OF LATE GOPAL RAI

53: KARNA RAI  
AGED ABOUT 48 YEARS  
S/O- LATE GOPAL RAI  
NEPHEW OF LATE ANIL RAI

54: LOBAKUMAR SARKAR

AGED ABOUT 35 YEARS  
S/O - SRI SITA NATH SARKAR  
NEPHEW OF LATE NIRANJAN SARKAR

55: RAM MANDAL  
AGED ABOUT 30 YEARS  
S/O - LATE CHANDI MANDAL  
GRANDSON OF LATE SETU MANDAL

56: RATUL PARAMANIK  
AGED ABOUT 32 YEARS  
S/O- LATE MOHOR PARAMANIK  
NEPHEW OF -  
LATE HAREN PARAMANIK

57: ARADHAN KARMAKAR  
AGED ABOUT 52 YEARS  
S/O- SRI MAHENDRA KARMAKAR  
NEPHEW OF FALU MANDAL

58: JUDHISTHIR MANDAL  
AGED ABOUT 55 YEARS  
S/O- LATE MADAN MANDAL  
GRANDSON OF-  
LATE RAIMOHAN MANDAL

59: GAYANATH MANDAL  
AGED ABOUT 51 YEARS  
S/O- LATE SANTOSH MANDAL  
NEPHEW OF LATE KALU MANDAL

60: BASUDEV MANDAL  
AGED ABOUT 48 YEARS  
S/O- LATE TUSTO MANDAL  
GRANDSON OF-  
LATE JADAB MANDAL

61: ANANTA RAI  
AGED ABOUT 60 YEARS  
S/O- LATE HEMANTA RAI  
BROTHER OF LATE MADHU RAI

62: BUDDHESWAR BISHWAS  
AGED ABOUT 42 YEARS  
S/O- SRI RAICHAN BISHWAS  
GRANDSON OF -  
LATE ANANDA MITRA  
ALL ARE PRESENTLY RESIDENTS OF VILLAGE- KAHIBARI

MOUZA- CHAMARIA  
DISTRICT- KAMRUP  
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY, GOVERNMENT  
OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT,  
DISPUR, GUWAHATI- 781006

2:THE DEPUTY COMMISSIONER  
KAMRUP  
AMINGAON  
ASSAM  
PIN- 78103

3:THE CIRCLE OFFICER CHAMARIA REVENUE CIRCLE  
CHAMARIA  
P.O- CHAMARIA  
KAMRUP  
ASSAM  
PIN- 78113

**Advocate for the Petitioner** : MR. A C SARMA

**Advocate for the Respondent** : SC, REVENUE

**BEFORE**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 22-07-2024**

Heard Mr. A.C Sarma learned counsel for the petitioners. Also heard Ms. P Mahanta, learned counsel for respondent No.1 and Ms. S Sarma learned Govt. Advocate, Assam appearing on behalf of respondent Nos.2 and 3.

By a Notification dated 18.01.1972, published in the Assam Gazette in its issue dated 18.03.1972, the establishment of

Gramshabha for Adarsha Kahibari Gramdan Samabai Samittee in Chamaria Mouza, Chaygaon Revenue Circle was notified under Section 5[1] of the Assam Gramdan Act, 1961. According to the petitioners, 62 [sixty-two] in nos., the Gramsabha was constituted with total 500 Bighas of land and as many as 185 nos. of families were allotted plots of land measuring 2 Bighas 3 Kathas each. By the Assam Land and Revenue Regulation [Amendment] Act, 2022, the Assam Gramdan Act, 1961 has been repealed. As per the said Act, the lands vested in the Assam State Gramdan Board under the Assam Gramdan Act, 1961 [since repealed] shall be vested to the State Government and such land shall be free from all encumbrances and shall be disposed of in the same manner as any other land disposed of by the Government as per the provisions of Section 12A of the Amendment. After repeal of the Assam Gramdan Act, 1961, the State Government in the Revenue [Reforms] and Disaster Management Department had issued an Office Memorandum dated 12.10.2022 wherein a provision is made for settlement of the land earlier allotted under the Assam Gramdan Act, 1961 [since repealed] to eligible occupiers through online mechanism of Mission Basundhara. The petitioners have claimed that they are eligible occupiers who should be allotted the lands which were earlier under the Gramshabha of Adarsha Kahibari Gramdan Samabai Samittee as under the Gramdan Act, 1961 [since repealed], they were earlier allotted the plots of land measuring 2 Bighas 3 Kathas each. It has been stated that the petitioners have accordingly submitted applications for settlement of such plots of land in their favour through online mechanism of Mission

Basundhara and receipt of such applications were duly acknowledged vide Annexure-9 series. Despite submission of the applications by the petitioner for settlement by acknowledging their receipt of same in April, 2023, the respondent authorities are found sitting over the matter without disposing of the applications. Hence, the writ petition.

The respondent Deputy Commissioner has filed an affidavit and admits that the petitioners had already raised their grievances before the concerned Deputy Commissioner as recorded hereinabove. The Deputy Commissioner had further taken a stand that the petitioners had submitted their application in a wrong format and therefore their applications could not be considered.

It is the further stand of the Deputy Commissioner that the petitioners ought to have made their applications under the Settlement Service Mission Basundhara 2 given under the Revenue & Disaster Management, Department Office Memorandum No.RDM-12011 (41)/1/2022-LR-REV-Revenue & DM/1 dated 12/12/2022 relating to Gramdan land.

The Deputy Commissioner had also taken a stand that in similar circumstances, other citizens who applied for settlement in due format had already been granted settlement after verification.

In view of the aforesaid and as agreed to by the learned counsel for the parties, this writ petition can be disposed of by directing the petitioners to either correct the defects in the application as raised by the Deputy Commissioner or they may file fresh application before the Deputy Commissioner raising their claim for settlement.

On such application being filed, the Deputy Commissioner shall do the needful as per the extant norms and pass necessary orders after verification of the claim of the petitioners.

The entire exercise shall be carried out within a period of four weeks from the date of receipt of the fresh application/corrected application of the petitioners.

It is needless to say that till such settlements are done, the possession of the petitioners over the land in question should not be disturbed.

At this stage Ms. P Mahanta has raised an issue that applications need to be made in online mode as the petitioners had wrongly filed their application and correction may not be possible.

Be that as it may, this court is of the view that, in the given facts of the present case, defect in application format cannot be a valid ground for rejection of the claim, if the claim made is genuine, inasmuch as settlement is a continuous process. The fact also remains that technology incorporated is for better service to the citizens and not to deprive from legitimate claim.

With the aforesaid directions and observations, the writ petition stands closed.

Parties to bear their own cost.

**JUDGE**