

GAHC010276202023



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

Case No. : WP(C)/7082/2023

ANIMA KHATUN AND 2 ORS
W/O LATE IKBAL ALI, R/O NAYAPARA, NEAR MADRASSA FIELD, SAHAR
ALI ROAD, P.O. AND P.S.-GOALPARA, DIST-GOALPARA, ASSAM, PIN-
783101, ASSAM

2: IFTEKHAR ALI
S/O LATE IKBAL ALI
R/O NAYAPARA
NEAR MADRASSA FIELD
SAHAR ALI ROAD
P.O. AND P.S.-GOALPARA
DIST-GOALPARA
PIN-783101
ASSAM

3: WACAF ALI
S/O LATE IKBAL ALI
R/O NAYAPARA
NEAR MADRASSA FIELD
SAHAR ALI ROAD
P.O. AND P.S.-GOALPARA
DIST-GOALPARA
PIN-783101
ASSA

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, GOVERNMENT
OF ASSAM, HOME AND ADMINISTRATION DEPARTMENT, DISPUR,
GUWAHATI-781006

2: THE DEPUTY COMMISSIONER
GOALPARA

P.O.-GOALPARA
PIN-783101
DIST-GOALPARA
ASSAM

3:THE CIRCLE OFFICER
BALIJANA REVENUE CIRCLE
DIST-GOALPARA
ASSAM
PIN-783101

4:THE OFFICER-IN-CHARGE
GOALPARA POLICE STATION
P.O.-GOALPARA
PIN-783101
DIST-GOALPARA
ASSAM

5:AHSAN ALI
S/O LATE RAHAT ALI
SAHAR ALI ROAD
NAYAPARA
P.O.-GOALPARA
P.S.-GOALPARA
DIST-GOALPRA
ASSAM
PIN-78310

Advocate for the Petitioner : MR. P HAZARIKA, MR M KASHYAP,MR. A K ROY,MR. T R SARMA

Advocate for the Respondent : GA, ASSAM, MD A S ALI (R-5),MR. A MANNAF (R-5),SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 06.08.2024

Heard Mr. T.R. Sarma, learned counsel for the petitioners. Also heard Ms. U. Das, learned Additional Senior Government Advocate appearing for the respondents No.1, 2, 3 and 4 and Mr. A. Mannan, learned counsel appearing for the respondent No.5.

2. The present proceeding has been instituted by the petitioners praying for a direction upon the respondents No.3 and 4 for implementation of the order dated 11.07.2023 passed by the Executive Magistrate, Goalpara in Misc Case No.148/2022 under Sections 107/133 Cr.P.C., requiring the respondent No.5 herein to remove the obstruction i.e. the gate installed by him over the path, which is used by the petitioners herein for ingress and egress to their property.

3. Being aggrieved by the said order dated 11.07.2023, the respondent No.5 herein had instituted Criminal Motion (Revision) Case No.21/2023 before the Court of learned Additional Sessions Judge, Goalpara. It is stated that the proceeding in the said Criminal Revision Pension as on date pending disposal.

4. The petitioners and the respondent No.5 to the present proceeding have arrived at an agreement that the respondent No.5 would comply with the directions as passed by the Executive Magistrate vide order dated 11.07.2023 strictly in the manner as it has been so directed and the petitioners herein shall bear the cost for dismantling such obstruction, which is in the form of a gate.

5. The parties have also agreed that such compliance would be without prejudice to their rights under consideration in Criminal Motion (Revision) Case No.21/2023 and such action now taken would be subject to further orders that would be passed in Criminal Motion (Revision) Case No.21/2023.

6. In view of such agreement arrived at between the parties, this Court hereby requires the respondent No.5 herein, to remove the obstruction so existing in terms of the direction passed by the Executive Magistrate, Goalpara vide order dated 11.07.2023 in Misc. Case No.148/2022, strictly in accordance thereof and the cost of dismantling the obstruction would be borne by the petitioners herein.

7. The said exercise shall be initiated and completed by the respondent No.5, on due payment from the petitioners herein within a period of 15 (fifteen) days from today.

8. It is observed that the said dismantling that would be done in the matter by the

respondent No.5 of the obstruction in question, shall be subject to the further order that would be passed in the Criminal Motion (Revision) Case No.21/2023, in other words, the dismantling of the obstruction by the respondent No.5, is without prejudice to the contentions as raised by him in Criminal Motion (Revision) Case No.21/2023.

9. With the above observation and direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant