

GAHC010282002023



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

Case No. : WP(C)/7324/2023

IMRAN HUSSAIN CHOUDHURY
S/O- LATE ASADDAR JAMAL,
R/O- VILLAGE JIRIGHAT LALPANI,
P.O.- JIRIGHAT, P.S.- JIRIGHAT,
DISTRICT- CACHAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 9 ORS
THROUGH-
THE PRINCIPAL SECRETARY,
TO THE GOVERNMENT OF ASSAM,
FOREST AND ENVIRONMENT DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
ASSAM
REHABARI
GUWAHATI- 781008.

3:THE DIVISIONAL FOREST OFFICER
CACHAR DIVISION
SILCHAR
DISTRICT- CACHAR
ASSAM.

4:THE RANGE FOREST OFFICER
JIRIGHAT FOREST RANGE
LAKHIPUR
DISTRICT- CACHAR
ASSAM.

5:THE DEPUTY RANGER
JIRIGHAT FOREST RANGE
LAKHIPUR
DISTRICT-CACHAR
ASSAM.

6:BEAT FOREST OFFICER
JIRIGHAT FOREST RANGE
LAKHIPUR
DISTRICT- CACHAR
ASSAM.

7:THE GAON BURAH/ GAON PRADHAN
KHOIRABAD FOREST RANGE

VILLAGE- JIRIGHAT LALPANI

P.O.- JIRIGHAT
P.S.- JIRIGHAT

DISTRICT- CACHAR
ASSAM.

8:IMABUMBI BIBI
W/O- LATE KAMAL UDDIN

R/O.- VILLAGE- JIRIGHAT LALPANI

P.O.- JIRIGHAT
P.S.- JIRIGHAT

DISTRICT- CACHAR
ASSAM.

9:SANATHOI BIBI
D/O- LATE KAMAL UDDIN

R/O.- VILLAGE- JIRIGHAT LALPANI

P.O.- JIRIGHAT
P.S.- JIRIGHAT

DISTRICT- CACHAR
ASSAM.

10:MATHOI BIBI
D/O- LATE KAMAL UDDIN

R/O.- VILLAGE- JIRIGHAT LALPANI

P.O.- JIRIGHAT
P.S.- JIRIGHAT

DISTRICT- CACHAR
ASSAM

Advocate for the Petitioner : MR. R MAJUMDAR

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

08.01.2024

Heard Mr. R. Mazumdar, learned counsel for the petitioner and Mr. I. Borthakur, learned Standing Counsel, Environment & Forest Department for the respondent nos. 1 – 6.

2. The petitioner has projected that one Late Abdul Aziz was his predecessor and his grandfather. Late Abdul Aziz had two sons, Late Asadur Zaman and Late Rashid Ali. According to the petitioner, Late Abdul Aziz was allotted a total 31 Bighas of land at Old Khoirabad Forest Village [F.V.] and New Khoirabad Forest Village [F.V.] by the respondent authorities and the successors-in-interest of Late Abdul Aziz, Late Asadur Zaman and Late Rashid Ali are in occupation of the said 31 Bighas of land till date. From the case projected in this writ petition, it transpires that the dispute is with regard to respective occupations of the family members of the two predecessors, Late Asadur Zaman and Late Rashid Ali.

2.1. On representations being made from the petitioner's side, an enquiry was directed by the respondent no. 3 through the respondent no. 4 on 22.10.2019. After enquiry, the respondent no. 3 had submitted a report on 24.03.2021 reporting *inter alia* to the effect that the petitioner's side has been enjoying occupation in respect of two plots of land measuring [i] 8 Bighas 12 Kathas 0 Chattak; and [ii] 5 Bighas 0 Kathas 0 Chattak, and the lineal descendants of Late Rashid Ali have

been enjoying occupation of a plot of land measuring 17 Bighas 10 Kathas 0 Chattak. The report has further indicated that the petitioner's side had forcefully encroached upon an area of land measuring about 3/4 Bighas under Dag no. 30 at Old Khoirabad Forest Village [F.V.]. The petitioner's side has controverted the said finding made in the enquiry report dated 24.03.2021 by contending that the said area of land measuring 3/4 Bighas, covered by Dag no. 30, at Old Khoirabad Forest Village [F.V.] was handed over to the petitioner's side by the lineal descendants of Late Rashid Ali, that is, the respondent nos. 8, 9 & 10, impleaded in the present writ petition, as per family settlement.

2.2. The enquiry report dated 24.03.2021 was followed by an order dated 27.09.2023 of the respondent no. 4 whereby the respondent no. 5 and the respondent no. 6 were asked to carry out eviction in respect of the disputed area of land covered by Dag no. 30 at Old Khoirabad Forest Village [F.V.]. It is stated that aggrieved by the issuance of the order dated 27.09.2023 whereby the petitioner's side had been sought to be evicted from the area of land covered by Dag no. 30, the petitioner's side had preferred a representation before the respondent no. 3 on 17.11.2023 claiming that they were in bonafide occupation of the said disputed area of land covered by Dag no. 30 at Old Khoirabad Forest Village [F.V.]

3. Though Mr. Mazumdar, learned counsel for the petitioner has submitted that the petitioner's is in occupation of the said disputed area of land, Mr. Borthakur, learned Standing Counsel representing the respondent Environment & Forest Department authorities has controverted the said submission. Since the matter of possession of the area of land measuring 3 Bighas, covered by Dag no. 30 at Old Khoirabad Forest Village [F.V.] is a disputed one, it is not necessary and proper for this Court to embark upon a fact finding exercise on the said aspect. Since the petitioner's side has already submitted a representation before the respondent no. 3 on 17.11.2023 which is stated to be pending, this Court is of the view that the respondent no. 3 can consider the said representation regarding the claim of the petitioner's side in respect of the area of land measuring 3 Bighas, covered by Dag no. 30, at Old Khoirabad Forest Village [F.V.] by taking into account the relevant records as well as the possession of the respective sides, after hearing all the stakeholders. While undertaking such exercise, the respondent no. 3 shall ensure that opportunities of hearing are afforded to all the stakeholders including the side of the lineal descendants of Late Rashid Ali, that is, the respondent nos. 8 to 10 impleaded in this writ

petition. It is accordingly ordered. In view of the nature of direction with which this writ petition has been disposed of at the motion stage, no notice has been issued to the respondent nos. 8 to 10. It is expected that the respondent no. 3 will complete the entire exercise within a period of 6 [six] weeks from the date of submission of a certified copy of this order by the petitioner at the office of the respondent no. 3, with due intimation about the outcome to the two sides.

4. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant