

GAHC010284022023



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

Case No. : WP(C)/7352/2023

MANIHAR SINGHA AND 20 ORS
S/O LATE MOURO SINGHA @ KULACHANDRA SINGHA, R/O NO. 1 PIPAL
PUKHURI, P.O. AND P.S.-LANKA, DIST-HOJAI, ASSAM, PIN-782446

2: BISWAJIT DUTTA
S/O LATE HARE KRISHNA DUTTA
R/O THAKUR BARI ROAD
HOJAI TOWN
WARD NO. 9
P.O.-HOJAI
DIST-HOJAI
ASSAM
PIN-782435

3: DIPANKAR CHANDA
S/O LATE HARIPAD CHANDA
R/O KRISHNA NAGAR
HOJAI TOWN
WARD NO. 9
P.O.-HOJAI
DIST-HOJAI
ASSAM
PIN-782435

4: SUMIT DUTTA
S/O BABUL DUTTA
R/O PUB DHANIRAM PATHAR
P.O.-TELLBASTI
P.S.-HOJAI
DIST-HOJAI
ASSAM
PIN-782435

5: AMIT DUTTA

S/O BABUL DUTTA
R/O PUB DHANIRAM PATHAR
P.O.-TELIBASTI
P.S.-HOJAI
DIST-HOJAI
ASSAM
PIN-782435

6: MINTU CHANDA @ RAMEN CHANDA
S/O LATE RABINDRA CHANDA
R/O KRISHNA NAGAR
HOJAI TOWN
WARD NO. 9
P.O.-HOJAI
DIST-HOJAI
ASSAM
PIN-782435

7: PRADIP DEY
S/O SRI PARIMAL DEY
R/O SUKANTA ROAD
N-AREA
W/NO.2
P.O. AND P.S.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

8: RATAN CHANDRA DUTTA
S/O LT. NARESH DUTTA
R/O L.P. ROAD
W/NO. 2
P.O. AND P.S.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

9: HARU CH. SHILL
S/O LT. ARUN CH. SHILL
R/O PAONA ROAD
LANKA TOWN
W/NO. 6
P.O.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

10: SUDARSHAN DAS

S/O LT. AMULLYA DAS
R/O MADHAVDEV ROAD SHIVBARI HOJAI TOWN W/NO. 4
P.O. AND DIST-HOJAI
ASSAM
PIN-782435

11: GANESH DAS
S/O LT. AMULLYA DAS
R/O MADHAVDEV ROAD SHIVBARI HOJAI TOWN W/NO. 4
P.O. AND DIST-HOJAI
ASSAM
PIN-782435

12: UTTAM BHOWAL
S/O LT. SUNIL BHOWAL
R/O DESHBANDHU ROAD SHIVBARI HOJAI TOWN
P.O. AND DIST-HOJAI
ASSAM
PIN-782435

13: SHIBEN BHOWAL
S/O LT. SUNIL BHOWAL
R/O DESHBANDHU ROAD SHIVBARI HOJAI TOWN
P.O. AND DIST-HOJAI
ASSAM
PIN-782435

14: RAJU MONDAL
S/O LT. SHITAL MONDAL
R/O SHANTIBAN PATH HOJAI TOWN W/NO. 8
P.O. AND DIST-HOJAI
ASSAM
pin-782435

15: NONIGOPAL RAKSHIT
S/O LT. MOHANTA RAKSHIT
R/O BIDYASAGAR PATH
GOLAGHATIABASTI HOJAI TOWN W/NO.-9
P.O. AND DIST- HOJAI
ASSAM
PIN-782435

16: MANGAL RAKSHIT
S/O LT. MOHANTA RAKSHIT
R/O BIDYASAGAR PATH
GOLAGHATIABASTI HOJAI TOWN W/NO.-9
P.O. AND DIST- HOJAI
ASSAM

PIN-782435

17: KALU SARKAR
S/O BIRENDRA SARKAR
R/O SHUKANTA ROAD
LANKA TOWN W/NO. 2
P.O.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

18: SMTI. MALATI SARKAR
W/O SHRI KALU SARKAR
R/O SHUKANTA ROAD
LANKA TOWN W/NO. 2
P.O.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

19: DULAL PAUL
S/O LT. MARAN PAUL
R/O MANASHABARI ROAD
LANKA TOWN W/NO. 6
P.O.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

20: SUNIL DAS
S/O LT. SACHINDRA DAS
R/O MANASHABARI ROAD
LANKA TOWN W/NO. 6
P.O.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

21: MITHUN DAS
S/O LT. SUBASH CH. DAS
R/O NETAJI NAGAR ROAD
LANKA TOWN W/NO. 6
P.O.-LANKA
DIST-HOJAI
ASSAM
PIN-78244

VERSUS

THE STATE OF ASSAM AND 3 ORS
TO BE REPRESENTED BY COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM, URBAN DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI-06

2:DISTRICT COMMISSIONER
HOJAI
SANKARDEV NAGAR
ASSAM
PIN-782442

3:LANKA MUNICIPAL BOARD
REPRESENTED BY EXECUTIVE OFFICER
LANKA MUNICIPAL BOARD
LANKA
ASSAM
PIN-782446

4:CHAIRMAN
LANKA MUNICIPAL BOARD
LANKA
ASSAM
PIN-78244

Advocate for the Petitioner : MR. N H MAZARBHUIYAN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 07-02-2024

Heard Mr. M.H. Saikia, learned counsel for the petitioners and Mr. D. Nath, learned Senior Government Advocate, Assam for all the respondents.

2. The petitioners herein, 21 in nos., have joined together to prefer this writ petition stating that they have a common cause of action. Sans the unnecessary details, the projected case of the petitioners is that they were earlier running their petty businesses from shops/rooms/villas allotted to them by the Lanka Municipal Board [earlier Lanka Municipal

Committee]. On 06.09.2014, Lanka Municipal Board issued a notice inviting applications from all existing traders for allotment of shops/rooms/vitas in the newly constructed Multi Storied Business Centre/Market Complex. Some of the petitioners herein, at that point of time, approached this Court by filing a writ petition, W.P.[C] no. 1122/2022 and the said writ petition was disposed of, by an order dated 28.02.2022, with a direction to the Deputy Commissioner, Hojai, Sankdardev Nagar to make an enquiry on the claims of the petitioners therein regarding allotment of shops/rooms/vitas in the newly constructed Multi Storied Business Centre/Market Complex of the Lanka Municipal Board, subject to hearing the other allottees, who were allotted shops/rooms/vitas therein prior to filing of the writ petition. In deference to the said direction, the Lanka Municipal Board authorities allotted the shops/rooms/vitas to each of the petitioners herein on payment of fees and other charges finding that the petitioners herein were running their businesses from the same place. The petitioners have projected that they have taken possession of their allotted rooms in the Multi Storied Business Centre/Market Complex in the meantime and have been running their businesses therefrom till date.

3. The petitioners have stated that on 06.11.2023, a notice issued by the Executive Officer, Lanka Municipal Board asking them to attend a hearing on 10.11.2023 along with all related documents at the office of the District Commissioner, Hojai, Sankardev Nagar. The notice has mentioned that the hearing is fixed as per order of this Court regarding allotment of shops/rooms/vitas in the newly constructed Multi Storied Business Centre/Market Complex of the respondent Lanka Municipal Board. Apprehending the notice as an action for cancellation of their allotments in the Multi Storied Business Centre/Market Complex, the petitioners have approached this Court by this writ petition.

4. On the previous date of listing of the writ petition, Mr. Nath has sought some time to obtain instructions as regards the reason behind issuance of the notice dated 06.11.2023. Mr. Nath has submitted, on receipt of instructions, to the effect that the petitioners have been called for the hearing in terms of a direction made in the order dated 28.02.2022 passed in a writ petition, W.P.[C] no. 1122/2022. A copy of the said order is found annexed to this writ petition as Annexure-6. From the order dated 28.02.2022, it is noticed that the petitioners

therein had projected that they had applied for shops/rooms/vitas in the newly constructed Multi Storied Business Centre/Market and the respondent Municipal Board did not consider their cases. Finding the case of those petitioners covered by other orders passed by the coordinate benches of the Court, the said writ petition, W.P.[C] no. 1122/2022 was disposed of with a direction that the Deputy Commissioner [presently District Commissioner, Hojai, Sankardev Nagar] shall make an enquiry as regards the claims of those petitioners regarding allotment of shops/rooms/vitas in the newly constructed Multi Storied Business Centre/Market Complex of the Lanka Municipal Board, *subject to hearing of the other allottees of the said Market Complex who were allotted spaces/rooms in the said Market Complex prior to the filing of this writ petition, W.P.[C] no. 1122/2022.*

5. Mr. Nath by referring to the said direction passed in the order dated 28.02.2022 [supra] has submitted that the petitioners herein were issued the notice dated 06.11.2022 only in compliance with the said direction made in the order dated 28.02.2022 as a direction was made to give a hearing to the other allottees in the Multi Storied Business Centre/Market Complex. He has submitted that instructions have been received to the effect that in respect of the petitioners in this writ petition, who have already been allotted the shops/rooms/vitas in the newly constructed Multi Storied Business Centre/Market Complex, the notice has been given only in the course of a fact finding enquiry and not for cancellation of the allotment of shops/rooms/vitas in the newly constructed Multi Storied Business Centre/Market Complex already made in favour of the present petitioner. He has further submitted that if after conclusion of the fact finding enquiry, the Lanka Municipal Board Complex takes any decision to initiate any process for cancellation of allotments/provisional allotments of shops/rooms/vitas in the newly constructed Multi Storied Business Centre/Market Complex which are likely to be prejudicial to any of the petitioners herein, proper show cause notice[s] would be issued and the noticees would be given all reasonable opportunities to represent their cases.

6. In view of such submissions made by Mr. Nath, learned Senior Government Advocate, Assam appearing for the respondents including respondent Lanka Municipal Board authorities, which have allayed the apprehension expressed by the petitioners herein, the writ petition

appears to be premature at this stage. It is, however, observed that in the event of initiation of any process for cancellation of the allotments/provisional allotments, such further process should be initiated with prior show cause notices and also by giving proper opportunity of being heard to the petitioners. In such view of the matter, this Court is of the considered view that the writ petition is not required to be proceeded further and accordingly, the same is closed.

JUDGE

Comparing Assistant