GAHC010030052026

2026:GAU-AS:2338

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

Case No. : WP(C)/864/2026

JAHANARA BEGUM
W/O- SURUZ ZAMAN BEN AKLAS, PRESENT ADDRESS- SEUJI NAGAR, PASCHIM BORAGAON, P.O. AND P.S. GORCHUK, DIST. KAMRUP (M), ASSAM, GUWAHATI-781035, PERMANENT ADDRESS- VILL.- PALHAZI, P.O. PALHAZI, P.S. AND DIST. BARPETA, ASSAM, PIN- 781309.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE DISTRICT COMMISSIONER OF KAMRUP METRO DISTRICT
LICHUBAGAN
HENGABARI
P.O. HENGRABARI
GUWAHATI-781036
ASSAM

3:THE CIRCLE OFFICER
GAUHATI REVENUE CIRCLE
P.O. AND P.S. ULUBARI
GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN- 781007

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. M. A. Sheikh, Advocate
: Mr. M. Mondal, Advocate

For the Respondent(s) : Ms. G. Hazarika, Standing Counsel
: Mr. S. S. Roy, Government Advocate

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **16.02.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. M. A. Sheikh, the learned counsel appearing on behalf of the Petitioner and Ms. G. Hazarika, the learned Standing counsel appearing on behalf of the Respondent No.1. I have also heard Mr. S. S. Roy, the learned Government Advocate appearing on behalf of the Respondent Nos. 2 and 3.

2. The Petitioner herein has filed the instant writ petition complaining about the notice issued by the Respondent No.3 which has been enclosed to the writ petition as Anenxure-6.

3. The Petitioner herein claims that she is in possession of a

small plot of land at village Paschim Boragaon in the District of Kamrup (M).

4. The case of the Petitioner herein is that she was a landless person in search of a plot of land for residential purposes. She came across a plot of land admeasuring 1 Katha, covered with thick jungle, situated at Paschim Boragaon under the Guwahati Revenue Circle, and since then the said land has been under her possession and care for several years. Be that as it may, it is also an admitted fact, as would be evident from Paragraph No. 5 of the writ petition, that the Respondent No.1 issued a notification dated 11.11.2022 prescribing the procedure for settlement of land in favour of landless persons. Accordingly, the Petitioner submitted an online application to the Respondent No. 2 seeking settlement of the said land in her favour. In that regard, an acknowledgment application has also been issued in favour of the Petitioner on 02.04.2023 which is part of the record and has been enclosed as Annexure-4 to the writ petition

5. Mr. M. A. Sheikh, the learned counsel appearing on behalf of the Petitioner submitted that no decision have been taken in respect to the said application by the Respondent Authorities. It is however pertinent to observe that filing of application seeking

settlement prima facie appears that the Petitioner has admitted that the said land is Government land. The learned counsel for the Petitioner further submitted that the Petitioner also had raised constructions over the said land.

6. The grievance of the Petitioner however is that while her application seeking settlement is pending, the Respondent Authorities have issued notice on 05.02.2026 under Section 18(3) of the Settlement Rules to the Petitioner. The said notice dated 05.02.2026 as already stated above has been enclosed as Annexure-6 to the writ petition.

7. The learned counsel for the Petitioner submitted that the Respondent No.3 by way of the said notice dated 05.02.2026 have directed the Petitioner to vacate the land within 15 days without carrying out any adjudication as regards the rights of the Petitioner qua the land under her possession. The learned counsel further submitted that on one hand, the Petitioner has been asked to vacate within 15 days and on the other hand, the Petitioner has been also asked to appear for hearing on the 14th day of the notice which means that even if any representation is submitted, it would not be a meaningful exercise. He therefore submitted that this is a fit case where the impugned notice dated 05.02.2026 is required to

set aside and quashed.

8. Per contra, Ms. G. Hazarika, the learned Standing counsel appearing on behalf of the Revenue Department submitted that the land in question being Government lands, no person has rights to remain in occupation of such land unless allotted and settled as per the provisions of the Assam Land and Revenue Regulation, 1886 read with the Settlement Rules. He further submitted that instead of setting aside the notice, the notice be construed as Show Cause Notice upon the Petitioner and a period of 15 days can be granted to the Petitioner from today for submitting her representation(s) along with necessary evidence to substantiate her claims to remain over the said land under her occupation. He further submitted that on the basis of the representation so submitted by the Petitioner along with the documents, the District Commissioner, Kamrup (Metro) or the Co-District Commissioner can be directed to look into such representations and thereupon pass Speaking Orders.

9. I have also heard Mr. S. S. Roy, the learned Government Advocate appearing on behalf of the Respondent No. 2 and 3 who also supports the submission of Ms. G. Hazarika, the learned Standing counsel appearing on behalf of the Revenue Department.

10. This Court has heard the learned counsels appearing on behalf of the parties and has given anxious consideration to their respective submissions.

11. The materials on record have been duly taken note of.

12. A perusal of the provisions of Assam Land and Revenue Regulation, 1886 as well as the Settlement Rules clearly show that no person can remain in occupation of Government land without permission or allotment granted by the competent authority.

13. This Court also finds it pertinent to observe that the Assam Land Policy, 2019 confers certain rights upon those persons who are in Government lands to seek settlement. This aspect has been duly taken note of by the learned Division Bench of this Court in the case of ***Md. Salak Uddin Vs. State of Assam and Others*** *reported in* ***(2024) SCC Online Gau 921***. It is very pertinent to observe that in the said judgment, the learned Division Bench of this Court observed that no matter what, a notice is required before initiating any procedure for eviction so that the principles of natural justice which forms a facet of Article 21 of the Constitution is not violated.

14. This Court now finds it also relevant to take note of the notice dated 05.02.2026 which has been issued to the Petitioner. The said

notice dated 05.02.2026 is reproduced herein under:

"***OFFICE OF THE CIRCLE OFFICER ::: GUWAHATI REVENUE CIRCLE***

(KAMRUP METROPOLITAN DISTIRCT)

No. G.C.49/2015/851-925 *Date : 05/02/2026*

To

Smt Jahanara Begum,

Govt. Dag No.1702

Whereas you have been found to be in unauthorized possession of a plot of land under Dag No. 1699, which is Government Khas land, without any lawful authority.

And whereas, as per the order of the District Commissioner vide Order No.KRC(M)373/2023/Misc/39 dated: 03/02/2026, any unauthorized occupant of Government land is required to vacate the land within 15 days from the date of publication of this notice under Section 18(3) of the Assam Land and Revenue Regulation, 1886.

And whereas it has also been observed that you have erected certain structures on the said land in the form of shops/school/houses/tin-shed/boundary fencing, which are also required to be removed within the stipulated time mentioned above.

Therefore, you are hereby directed to vacate the Government land under your unauthorized possession and remove all structures standing thereon on or before ***19/02/2026.***

However, if you wish to make any representation in this regard, you may appear before the undersigned on ***18/02/2026 at 11:00 A.M****.*

Circle Officer
Guwahati Revenue Circle
Kamrup (M) District"

15. A perusal of the said notice reveals that on one hand, the Petitioner has been asked to vacate within 15 days from the date of publication of the notice and on the other hand, the Petitioner has also been asked to submit representation and appear before the Respondent No.3 on 18.02.2026 at 11 AM.

16. The contents of the said notice quoted above do not inspire the confidence of this Court taking into consideration that on one hand the Respondent No.3 had asked the Petitioner to vacate the land under her occupation and on the other hand had asked the Petitioner to appear one day prior to the date fixed for the Petitioner to vacate. It appears that the manner in which the Respondent No.3 proposes to deal with the matter is too mechanical. Under such circumstances, such course of action cannot be permitted as per the settled principles of law.

Be that as it may, as the Petitioner admittedly has received the notice which has been enclosed as Annexure-6 to the writ petition, it would be in the interest of justice that instead of setting aside the notice, the said notice be construed as Show Cause Notice.

17. The Petitioner can be granted the liberty to submit her respective representation treating the said notice as Show Cause Notice and thereby providing the necessary evidences which would show that the Petitioner has a right of settlement over the land in terms with the Assam Land Policy, 2019 as well as also that the Petitioner's rights over the land have matured by operation of law.

18. This Court is also of the opinion that when the Petitioner is given the opportunity to submit her representation along with necessary evidences, an opportunity of personal hearing would also be required to be given to the Petitioner so that she is in a position to explain her case in relation to evidence produced. This Court duly takes note of a recent judgment passed by the Supreme Court in the case of ***Abdul Khalek and Others Vs. State of Assam and Others*** dated 10.02.2026 wherein the Supreme Court even in respect to reserved forest land directed that pursuant to orders passed, if the decision is not favourable, a further period of 15 days is required to be given so that the aggrieved parties can take recourse to the provisions of law.

19. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) The notice dated 05.02.2026 which has been issued to the Petitioner enclosed as Annexure-6 to the writ petition shall be treated as Show Cause Notice issued to the Petitioner.

(ii) The Petitioner having received the notice is given the liberty to submit representation within 20 days from today.

(iii) This Court further directs that such representation be submitted to the District Commissioner, Kamrup (Metro).

(iv) The District Commissioner, Kamrup (Metro) or the Co-District Commissioner, within whose jurisdiction the land in question is situated shall decide such representation by affording opportunity of personal hearing to the Petitioner in pursuance to the instant judgment passed by this Court.

(v) The District Commissioner, Kamrup (Metro) or Co-District Commissioner shall decide the representation by taking note of the provisions of the Assam Land and Revenue Regulation, 1886, the Settlement Rules as well as the Assam Land Policy, 2019 without being influenced by the contents of Paragraph Nos. 1 and 2 of the said notice so issued.

(vi) It is further observed and directed that District Commissioner,

Kamrup (Metro) or the Co-District Commissioner shall pass Speaking Order against the claims made by the Petitioner as per the liberty granted above.

(vii) It is further observed that in the circumstance, the Speaking Order passed is against the claims of the Petitioner, no steps for eviction be carried out for a period of 15 days from service of such Speaking Order upon the Petitioner. In that regard, it shall be open to the District Commissioner, Kamrup (Metro) or the Co-District Commissioner to fix a date for passing the Speaking Order on the date of the personal hearing or such date as per its convenience.

(viii) It is observed that till the aforesaid exercise is being carried out as directed hereinabove, no steps be taken for eviction of the Petitioners.

Bijoy Saha

Digitally signed by Bijoy Saha
Date: 2026.02.18 19:15:44 +05'30'

JUDGE

Comparing Assistant