GAHC010119292022

2026:GAU-AS:2655

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

Case No. : WP(C)/4028/2022

NATURE AND ANIMAL DEVELOPMENT ORGANIZATION (NADO) AND ANR.
REPRESENTED BY ITS PRESIDENT, SRI ANJAN BHUYAN, HAVING ITS OFFICE AT WARD NO. 6, RANGIA.

2: ANJAN BHUYAN
SON OF BIHU RAM BHUYAN
RESIDENT OF WARD NO. 7
RANGIA
KAMRUP
ASSAM
PIN- 78135

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY, LAND REVENUE REFORMS DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DEPUTY COMMISSIONER
KAMRUP(R)
AMINGAON
PIN- 781031
ASSAM.

3:THE ADDITIONAL DEPUTY COMMISSIONER
RANGIA
DISTRICT- KAMRUP(R)
PIN- 781354
ASSAM.

4:THE CIRCLE OFFICER
RANGIA REVENUE CIRCLE
DISTRICT- KAMRUP(R)

ASSAM.

5:KALIPAD GHOSH
SON OF LATE SANTOSH GHOSH
RESIDENT OF WARD NO. 6
RANGIA TOWN
STATION
DISTRICT- KAMRUP(R)
ASSAM
PIN- 781354

B E F O R E

HON'BLE MR. JUSTICE DEVASHIS BARUAH

Advocate for the petitioner(s): Mr. HK Das

Advocate for the respondent(s): Mr. S Dutta Standing Counsel,
Revenue & Disaster Management
Mr. N Das Govt. Advocate, Assam
Mr. TH Hazarika for respondent No.5

Date on which Judgment is reserved : NA

Date of Pronouncement of Judgment : **20.02.2026**

Whether the Pronouncement is of the : NA
Operative Part of the Judgment

Whether the Full Judgment has been : Yes
Pronounced

JUDGMENT & ORDER (ORAL)

Heard Mr. HK Das, the learned counsel appearing on behalf of the petitioner. I have also heard Mr. S Dutta, the learned counsel, who appears on behalf of the respondent No.1; Mr. N Das, the learned Government Advocate, Assam who appears on behalf of the respondent Nos.2, 3 and 4 and Mr. TH Hazarika, the learned counsel who appears on behalf of the respondent No.5.

2. The present writ petition has been filed challenging the order dated 26.05.2022, whereby the respondent No. 4 had informed the petitioner that in pursuance to an order passed by this Court on 26.11.2021 in WP(C)No.3493/2016, and further, as per the orders passed by the Additional Deputy Commissioner, i/c. Rangia dated 10.05.2021, an eviction drive would be carried out on 17.06.2022 at 11 AM in Dag No. 337 (Govt.) of Rangia Town, Mouza Panduri, under Rangia Revenue Circle.

3. The brief facts which led to the filing of the instant writ petition, as would be apparent from the pleadings are that the petitioner herein claims to be a Non-governmental Organization registered under the Societies Registration Act 1860. The petitioner Organisation was established in the year 2011 with the objective to take care and

submit itself to the welfare of the animals.

4. The materials on record no doubt show that the petitioner had set up its Office upon a Government land, bearing Dag No. 337. Be that as it may, the respondent No.5 had filed an application complaining that the petitioner Organisation had set up a dwelling house which affects the ingress and egress of the respondent No.5 to his own land. The representation so submitted before the concerned District Administration, having not been taken into consideration, the respondent No.5 had filed a writ petition before this Court which was registered and numbered as WP(C) No. 3493/2016.

5. Pertinent herein to mention is that petitioner herein was arrayed as the respondent No.6 in the said proceedings, but the petitioner Organisation did not put in appearance despite service of notice. The learned Coordinate Bench of this Court, by the order dated 26.11.2021, disposed of the writ petition with certain directions. The directions can be seen at paragraph Nos. 11, 12, and 13 of the order dated 26.11.2021, passed in WP(C)No.3493/2016 which are reproduced hereinunder:

> " *11. Under the circumstances this Court is of the view that the writ petition can be disposed of with specific directions to the respondents more particularly respondent no. 2 and 4 to look into the grievances urged by the petitioner and*

take required steps as provided under law by passing necessary orders as per provisions of law. The petitioner is also permitted liberty to file necessary applications, representations before the Rangia Municipal Board and upon which the Municipality Board after proper verification pass necessary orders and if required take steps under the provisions of Assam Municipal Act, 1956

for removal of obstruction and unauthorized constructions on the municipality road.

12. The Deputy Commissioner, the respondents no. 2 and 3 upon causing necessary verification and enquiry into the grievances urged by the petitioner besides passing appropriate orders in the matter are also at liberty to file necessary complaint before the Law Enforcement Agency in the event any illegal activities are noticed in the said plot of land by any person(s).

13. The petitioner is directed to file proper representation along with a certified copy of this order within 2 (two) weeks from today and the concerned authorities will thereafter passed necessary orders within 4 (four) weeks thereafter upon hearing all the required Stake holders in the matter and circulate the copies of the orders passed."

6. In pursuance to the aforesaid order dated 26.11.2021, the respondent No.5 submitted a representation. The records further reveal that on 10.05.2022, the Additional Deputy Commissioner, i/c. Rangia, issued an order to the respondent No.4 referring to the order passed by the learned Coordinate Bench dated 26.11.2021 in WP(C) No.3493/2016, and further that the petitioner Organisation was occupying Dag No.337, which is a Government land reserved for PWD road of village Rangia. The Additional Deputy Commissioner, i/c.

Rangia further asked the Circle Officer i.e. the respondent No. 4 to take necessary action in the matter as per the latest land Policy of 2019. It further appears that the respondent No.4, on the basis of the order dated 26.11.2021 in WP(C) 3493/2016, as well as the order of the Additional Deputy Commissioner, i/c. Rangia dated 10.05.2021 informed the petitioner that an eviction would be carried out on 17.06.2022 and it is under such circumstances, the petitioner has approached this Court.

7. The records show that when the writ petition was taken up by this Court vide an order dated 16.06.2022, this Court, while issuing notice, stayed the impugned order dated 26.05.2022. The interim order thereupon has been extended from time to time.

8. It is also seen that in the meantime various pleadings have been exchanged and the same have been duly perused. Mr. H.K. Das, the learned counsel appearing on behalf of the petitioner submitted that in view of the judgment of 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 the mandate of law that if any action for eviction is taken under Rule 18 of the Settlement Rules framed under the *Assam Land and Revenue Regulation 1886*, (for short, `*the Regulation of 1886*') it has to be preceded by a show

cause notice. He further submitted that the petitioner Organisation has also submitted application before the District Commissioner, Kamrup seeking settlement of the said land under their possession.

9. The learned counsel for the petitioner further submitted that the order dated 26.11.2021 passed in WP(C)No.3493/2016 did not direct that the petitioner should be evicted. The learned counsel for the petitioner further submitted that even the order dated 10.05.2021 of the Additional Deputy Commissioner, i/c. Rangia only asked the respondent No. 4 to take a decision in terms of the Land Policy of 2019. However, without any notice whatsoever, the impugned order of eviction was passed.

10. Mr. N Das, the learned Govt. Advocate appearing on behalf of the respondent Nos.2, 3, and 4 submitted that the land in question is a Government land and taking into account the provisions of Rule 16 of the Settlement Rules, the petitioner has no authority to remain in possession of the Government land, save and except, if permission has been accorded by the competent authority. The learned counsel for the State respondents further submitted that it being a land reserved for the road, the question of settlement to be granted to the petitioner does not arise as it is barred under the Assam Land Policy of 2019.

11. Mr. T.H. Hazarika, the learned counsel appearing on behalf of the respondent No. 5 submitted that not only the petitioner is a trespasser into the Government land, but the petitioner had set up its occupation in an area thereby affecting the ingress and egress of the respondent No. 5 to his own land. The learned counsel for the respondent No.5 further submitted that the petitioner was a party to the earlier proceedings and as such, the petitioner Organisaiton would be presumed to have known the directions which have been passed.

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

13. The power which is sought to be exercised by the respondent No. 4 in the instant proceeding can be traced to Rule 18(2) of the Settlement Rules framed under the Regulation of 1886. In the case of ***Md. Salak Uddin*** (supra), the learned Division Bench of this Court had categorically held that prior to taking any action for eviction under Section 18(2) of the Settlement Rules, the person against whom eviction proceedings is to be initiated is entitled to a show-cause notice so that he is in the position to explain even in respect to land reserved for road, that such land is not reserved for road and as such

is entitled to settlement in terms of the Assam Land Policy of 2019. However, if no show-cause notice is issued, thereby enabling the person who is in occupation of the Government land to submit a representation/reply, it would affect his/her rights under Article 21 of the Constitution, *inasmuch as* the principles of Natural Justice is a facet of Article 21 of the Constitution.

14. It is also the opinion of this Court on the basis of the settled principles of law that if an opportunity is being given to a person to submit a reply, he should also be given an opportunity of personal hearing so that he can explain the documents before the Competent Authority. In a very 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 the Supreme Court further observed that if an Speaking Order is being passed which would affect the occupant, a further 15 days time is required to be provided to the person concerned so that he may be in a position to take resort to permissible course of action.

15. Accordingly, this Court, therefore, disposes of the instant writ petition with the following observations and directions:

(i). The order dated 26.05.2022 is set aside and quashed.

(ii). The issuance of the order dated 26.05.2022 shall be construed as deemed notice to the petitioner that the respondent authorities seeks to evict the petitioner from the land under its occupation.

(iii). The petitioner herein is given the liberty to submit a representation within 15 days from the date of the instant judgment before the District Commissioner, Kamrup along with such documents/evidence as may be advised.

(iv). The District Commissioner, Kamrup or his delegate, the Co-District Commissioner, shall give the petitioner an opportunity of personal hearing by fixing a date.

(v). This court also duly takes note of that the respondent No.5 is also being affected in view of the actions of the petitioner, and, as such, while giving the personal hearing to the petitioner, the respondent No. 5 may also be put to notice so that he can also participate in the said personal hearing.

(vi). The District Commissioner, Kamrup, or the Co-District Commissioner, thereafter shall pass a Speaking Order.

(vii). This Court further directs that in the circumstance the Speaking Order is not favorable to the petitioner, no steps for eviction be carried out for a period of 15 days from the date the said speaking order is served upon the petitioner. It shall be open

to the District Commissioner, Kamrup or the Co-District Commissioner to fix a date for passing the order on the date of personal hearing and if the order is passed on the same date, it shall be deemed that the petitioner has knowledge about the said Speaking Order and the period of 15(fifteen) days stated above shall be computed from such date.

JUDGE

Shivani Gautam Digitally signed by Shivani Gautam Date: 2026.02.23 15:30:01 +05'30'

Comparing Assistant