GAHC010252462026

2026:GAU-AS:17466

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

Case No. : WP(C)/6190/2026

MD SAHED ALI ALIAS SAHED ALI AND ANR
S/O- LATE. SAYAB ALI, RESIDENT OF VILLAGE 9/6 KOILAMARI, P.S. NORTH LAKHIMPUR, DIST. LAKHIMPUR, ASSAM

2: MD JOYNAL ABEDIN ALIAS JOYNAL ABDIN
S/O- LATE. SAYAB ALI
RESIDENT OF VILLAGE 9/6 KOILAMARI
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPTT. DISPUR, GUWAHATI-06

2:THE DIRECTOR OF LAND RECORDS AND SURVEYS ETC
ASSAM
RUPNAGAR
GUWAHATI-32.

3:THE DISTRICT COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM. PIN-787001.

4:THE CIRCLE OFFICER
NORTH LAKHIMPUR REVENUE CIRCLE
NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM PIN-787001

Advocate for the Petitioner : MD. A HUSSAIN, MR. T ISLAM,MR. K ALOM

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 25-11-2026

Heard Mr. A. Hussain, learned counsel for the petitioners; Ms. G. Hazarika, learned Standing counsel, Revenue Department, Government of Assam for the respondent nos. 1 & 2; and Mr. N. Goswami, learned Junior Government advocate, Assam for the respondent nos. 3 & 4.

2. The case of the two petitioners, as projected in the writ petition, is that the wife of the petitioner no. 1 viz. Najuma Begum had purchased a plot of land measuring 2 Bighas 1 Katha, covered by Dag no. 698 of Periodic Patta no. 92, situate at Village – 9/6 Koilamari, North Lakhimpur Revenue Circle, District – Lakhimpur, Assam [‘the subject-plot no. 1’, for short] from its erstwhile owner. Subsequently on 03.01.2013, the subject-plot no. 1 stood mutated in the name of Smti. Najuma Begum. Smti. Najuma Begum purchased another plot of land measuring 1 Bigha 3 kathas, covered by Dag no. 697 and Periodic Patta no. 102, situate at Village - 9/6 Koilamri, North Lakhimpur Revenue Circle, District – Lakhimpur, Assam [‘the subject-plot no. 2’, for short] from its erstwhile owner. Thereafter, the subject-plot no. 2 stood mutated in the name of Smti. Najuma Begum by an Order dated 28.01.2016 passed by the respondent no. 4. Both the subject-plots, that is, subject-plot no. 1 and subject-plot no. 2 have been under

possession of the petitioners, who are brothers.

3. It is the case of the petitioners that in both the plots of land, the name of Smti. Najuma Begum is reflected in the Jamabandi [Records of Right] and land revenue is being paid accordingly. To substantiate the factum of ownership and possession, the petitioners have stated that in all the houses constructed on the subject-plots as their dwelling houses, Assam State Electricity Board has provided electricity connection.

4. According to the petitioners, the cause of action for the petitioners to prefer the instant writ petition has arisen due to service of an Eviction Notice upon the petitioners by the respondent no. 4 on 06.08.2026 under Rule 18[2] of the Settlement Rules, Assam under the Assam Land and Revenue Regulation, 1886 ['the Regulation, 1886', for short]. By the impugned Eviction Notice, the petitioners have been asked to appear on 24.08.2026 before the respondent no. 4 and to submit relevant documents in respect of Government Dag no. 262 situate at Revenue Village – 9/6 Koilamari, North Lakhimpur Revenue Circle, District – Lakhimpur, Assam. On being served with the Eviction Notice, the petitioners have submitted a Reply stating inter alia that they are only in possession of the subject-plot no. 1 and the subject-plot no. 2 which are periodic patta lands, and are not in possession of any area of land covered by Dag no. 262, which the respondent no. 4 has asserted to be Government land.

5. The petitioners have contended that as they are in possession of only periodic patta lands, in the forms of subject-plot no. 1 and subject-plot no. 2, which are in the name of Smti. Najuma Begum, and are not in possession of

any area of Government land, not to speak of any area under Government Dag no. 262, the Eviction Notice dated 06.08.2026 is not valid and inoperative in so far as the petitioners are concerned. The petitioners have stated that apart from submission of the reply they had also attended the hearing on 24.08.2026 before the respondent no. 4.

6. The petitioners have stated that though the respondent no. 4 is obligated to pass a speaking order after considering the claim of the petitioners canvassed in the reply, the petitioners are apprehending that without passing any speaking order, as required, steps might be initiated for their eviction. The petitioners have stated that when no speaking order was passed by the respondent no. 4 till 05.11.2026, they have preferred an appeal before the respondent no. 3 on 05.11.2026. As the petitioners have not received any response either from the respondent no. 3 or from the respondent no. 4, the petitioners are before this Court by the present writ petition.

7. Rule 18 of the Settlement Rules has provided for ejection. Sub-rule [1] has prescribed that the Deputy Commissioner may eject any person from land over which no person has acquired the rights of a proprietor, landholder, or settlement-holder. Sub-rule [2] of Rule 18 has provided that when such a person enters into possession of Government khas land, or Waste land or estate over which no person has acquired the rights of a proprietor, land-holder or settlement-holder or any land that has previously been reserved for roads or roadside land or for the grazing of village cattle or for other public purposes, or has entered into possession of land from which he has been excluded by general or special orders and when further, there is no bonafide claim of right

involved he may be ejected or ordered to vacate the land forthwith, and the Deputy Commissioner may sell, confiscate or destroy any crop raised, or any building or other construction erected without authority on the land. Sub-rule [3][a] of the Rule 18 has provided for ejectment in all other cases which do not fall under Rule 18[2].

8. On consideration of the provisions of Rule 18[2], a Division Bench of this Court in **Salak Uddin [Md.] vs. State of Assam and others, 2024 [4] GLT 857**, has drawn a conclusion that the revenue authorities cannot be permitted to unilaterally decide as to whether an occupier/possessor has a bonafide claim of right involved in as much as it would require adjudication of both law and facts and if an opportunity to the occupier/possessor is not provided, the same would be in violation of the principles of natural justice which, in turn, would violate Article 14, Article 19 and Article 21 of the Constitution. It has been observed that prior notice to the occupier/possessor before initiation of proceeding under Rule 18[2] of the Settlement Rules is the mandate of law in order to save Rule 18[2] of the Settlement Rules from being constitutionally invalid on procedural grounds.

9. Both Ms. Hazarika and Mr. Goswami, learned counsel appearing for the State respondents have submitted that since the petitioners have already submitted a reply/representation, the respondent no. 4 may be directed to give due consideration to the said reply/representation.

10. Taking note of the fact situation obtaining in the case in hand, this Court is of the considered view that when a noticee is served with a notice alleging

unauthorized occupation on his part of any plot of land, which falls in the categories of land mentioned in Rule 18[2] of the Settlement Rules, the noticee is to be given due opportunity of placing his case before the authority by way of a representation, if he chooses to do so, regarding existence of any bonafide claim or not in his favour and thereafter, the authority is obligated to give due consideration to such representation submitted in response to the Notice qua the claim made by the noticee, and to all the documents, if any, submitted along with the representation in support of the noticee's claim, regarding the noticee's bonafide claim and occupation and right to be settled, on the concerned plot of land, and thereafter, to pass a speaking order as regards the status of the noticee qua the plot of land stated to be allegedly under the noticee's unauthorized occupation.

11. As Mr. Hussain, learned counsel appearing for the petitioners has submitted that the petitioners have already submitted their reply/representation in response to the Eviction Notice dated 06.08.2026 and a hearing has already been taken place in that connection on 24.08.2026, the responsibility is now cast upon the respondent no. 4 to dispose of the reply/representation so submitted by passing a speaking order after considering the claim of the petitioners that they are only in occupation of the subject-plot no. 1 and subject-plot no. 2, which are periodic patta land and not Government land, and not in possession of any area of land within Government Dag no. 262. It is accordingly ordered. The speaking order to be so passed is to be communicated to the petitioners immediately thereafter. It is only after determining the status of the Eviction Notice dated 06.08.2026 in the afore-mentioned manner, further action contemplated under the law is to be taken.

12. With the observations made and the directions given above, the writ petition is disposed of. There is no order as to cost.

JUDGE

Comparing Assistant