

GAHC010003652022



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

Case No. : WP(C)/191/2022

HAMED ALI AND 5 ORS
S/O LATE PERU ALI, R/O VILL- BOKAJAN, P.O.-BOKAJAN, P.S.-TEZPUR,
DIST- SONITPUR, ASSAM, PIN-784015

2: NURUL HAQUE ALI
S/O AHMED ALI
R/O VILL- BOKAJAN
P.O.-BOKAJAN
P.S.-TEZPUR
DIST- SONITPUR
ASSAM
PIN-784015

3: RAJIKUL ALI
S/O LATE NURUL ISLAM
VILL- BOKAJAN
P.O.-BOKAJAN
P.S.-TEZPUR
DIST- SONITPUR
ASSAM
PIN-784015

4: SAMAR ALI
S/O LATE PERU MIYA
VILL- BOKAJAN
P.O.-BOKAJAN
P.S.-TEZPUR
DIST- SONITPUR
ASSAM
PIN-784015

5: ASMAT ALI
S/O MAHMMAD ALI
VILL- BOKAJAN

P.O.-BOKAJAN
P.S.-TEZPUR
DIST- SONITPUR
ASSAM
PIN-784015

6: ABDUL JALIL
S/O SUKUR ALI
VILL- BOKAJAN
P.O.-BOKAJAN
P.S.-TEZPUR
DIST- SONITPUR
ASSAM
PIN-78401

VERSUS

THE UNION OF INDIA AND 5 ORS
THROUGH THE SECRETARY, MINISTRY OF DEFENCE, NEW DELHI-110001

2:THE AIR COMMANDING OFFICER
AIRFORCE STATION
TEZPUR
PIN-784104

3:THE PRINCIPAL SECRETARY LAND REVENUE AND DISASTER
MANAGEMENT DEPARTMENT
TO THE GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-781006

4:THE DEPUTY COMMISSIONER
SONITPUR
TEZPUR
PIN-784001

5:THE CIRLCE OFFICER
CHARIDUAR REVENUE CIRCLE
CHARIDUAR
DIST-SONITPUR
ASSAM
PIN-784012

6:MS ADITI GOGOI
CIRCLE OFFICER
CHARIDUAR REVENUE CIRLCE
CHARIDUAR
DIST- SONITPUR

ASSAM
PIN-78410

Advocate for the Petitioner : MR. R P SARMAH

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

10-01-2022

Heard Mr. R.P. Sarmah, learned Senior counsel assisted by Ms. S.P. Chetry, learned counsel for the petitioners and Mr. A. K. Dutta, learned Central Government Counsel for the respondent Nos. 1 & 2. Also heard Mr. B. J. Talukdar, learned Standing counsel, Revenue and Disaster Management Department for the respondent No. 3 and Mr. K. Gogoi, learned Additional Senior Government Advocate, Assam for the respondent Nos. 4 & 5.

It is claimed by the petitioners that they are the patta holders of land covered by (i) Dag No. 410, Patta No. 63 and (ii) Dag No. 225, Patta No. 136 Village-Bokajan, Lot No. 3, Mouza-Goraimari of Chariduar Revenue Circle, Sub-Division-Tezpur in the district of Sonitpur.

However, the Circle Officer, Chariduar Revenue Circle, Chariduar respondent No. 5 by issuing notices under No. CDR-94/Airforce Acq./2021/1204 dated 28.12.2021 directed the petitioners to stop any such new construction work and to demolish whatever they constructed within the radius of 900 meters of the adjacent Airforce Station within 24 hours.

Being aggrieved with such action of the respondents, the petitioners have preferred this writ petition.

Mr. Gogoi, learned Additional Senior Government Advocate, Assam from the said notices dated 28.12.2021 (Annexure- B to this petition) issued by the Circle Officer, Chariduar Revenue Circle, Chariduar placed before the Court that such notices have been issued to the petitioners as there is a Notification in force being No. 4(3)/2005-D/(AIR-II) dated 02.05.2007 issued by the Government of India in the Ministry of Defence as well as the consequential Notification No. RLA/277/ 2008/30 dated 11.08.2008 issued by the Government of Assam in the Revenue Department in pursuance of which, the Deputy Commissioner, Sonitpur on 13.08.2018 had already issued an order observing that within

the radius of 900 meters of the concerned Airforce Station at Sonitpur district stopped all such construction and plantation over the said land.

Mr. Gogoi, learned Additional Senior Government Advocate, Assam further submits that as it has been found that the petitioners have made new construction within the radius of 900 meters of the adjacent Airforce Station, Sonitpur the concerned Circle Officer, Chariduar Revenue Circle, Chariduar on 28.12.2021 issued such notices to the petitioners. Mr. Gogoi, learned Additional Senior Government Advocate, Assam also submitted that such orders have been issued considering the security installations of National importance and its defence.

On the other hand, Mr. Sarmah, learned Senior counsel for the petitioners submits that the petitioners being the patta holders they have right to construct houses over the said land and if at all, the respondents want to have acquired their said land, it may be duly acquired by paying them adequate compensation for the said land, noted above as provided in law. However, it is seen that the petitioners have not challenged the said order of the Deputy Commissioner, Sonitpur dated 13.08.2018.

Issue notice, returnable by **28.01.2022**.

As Mr. A. K. Dutta, learned Central Government Counsel; Mr. B. J. Talukdar, learned Standing counsel, Revenue and Disaster Management Department and Mr. K. Gogoi, learned Additional Senior Government Advocate, Assam have accepted the notices on behalf of the respondent Nos. 1 & 2; 3 and 4 & 5 respectively, no formal notice need to be issued to those respondents.

Petitioners shall serve requisite extra copies of this writ petition including the annexures appended thereto to Mr. Dutta, learned Central Government Counsel; Mr. Talukdar, learned Standing counsel, Revenue and Disaster Management Department and Mr. Gogoi, learned Additional Senior Government Advocate, Assam by tomorrow, i.e., 11.01.2022, obtaining necessary acknowledgment from them in that regard.

Petitioners shall take step for service of notice on the respondent No. 6 by registered post with A/D by tomorrow, i.e., 11.01.2022, providing her correct and proper address with requisite postal stamps.

On the returnable date i.e., 28.01.2022, the Deputy Commissioner, Sonitpur, Tezpur, respondent No. 4 as well as the Circle Officer, Chariduar Revenue Circle, Chariduar, respondent No. 5 shall place the relevant records regarding issuance of such Notification dated 02.05.2007 of the Government of India in the Ministry of Defence as well as the Notification dated 11.08.2008 of the Government of Assam in

the Revenue Department and said order dated 13.08.2018 of the Deputy Commissioner, Sonitpur as mentioned in the impugned notices dated 28.12.2021 of the Circle Officer, Chariduar Revenue Circle, Chariduar.

The Circle Officer, Chariduar Revenue Circle, District-Sonitpur, respondent No. 5 shall place the relevant file in original being No. CDR-94/Airforce Acq./2021/1204 wherein the said Officer issued the impugned Notices dated 28.12.2021 (Annexure-B to this petition).

The interim prayer of the petitioners shall be considered after perusal of the relevant records to be placed by the respondents on the returnable date i.e., 28.01.2022.

Copy of this order be furnished to Mr. K. Gogoi, learned Additional Senior Government Advocate, Assam for his necessary use.

List accordingly.

JUDGE

Comparing Assistant