

GAHC010008662026



2026:GAU-AS:2754

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

Case No. : WP(C)/284/2026

SANOWAR HUSSAIN AND ANR
S/O DILWAR HUSSAIN, R/O VILL- BARALKUNDI BEEL, P.O. A P M (ASHOK
PAPER MILL), P.S. JOGIGOPA, DIST- BONGAIGAON, ASSAM, PIN- 783388.

2: RAHMAT ALI AHMED
S/O LATE BAHEZ ALI
R/O VILL- BARALKUNDI BEEL
P.O. A P M (ASHOK PAPER MILL)
P.S. JOGIGOPA
DIST- BONGAIGAON
ASSAM
PIN- 783388

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GHY- 06.

2:THE SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GHY- 06.

3:THE DISTRICT COMMISSIONER
BONGAIGAON
ASSAM
PIN- 783380.

4:THE CIRCLE OFFICER
BOITHAMARI REVENUE CIRCLE
DIST- BONGAIGAON
ASSAM
PIN -783380

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

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

For the Respondent(s) : Mr. S. S. Roy, Govt. Advocate
Ms. N. Bordoloi, SC, Revenue

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 23.02.2026

Whether the pronouncement is of the
Operative part of the judgment? : NA

Whether the full judgment has been
Pronounced? : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. M. U. Mondal, the learned counsel appearing on behalf of the petitioner. Mr. S. S. Roy, the learned Government Advocate appears on behalf of the respondent Nos.1, 3 & 4. Ms. N. Bordoloi, the learned counsel appears on behalf of the respondent No.2.

2. Two (2) writ petitioners have joined together to file the instant writ petition complaining about the notice issued by the Respondent No.4 which has been enclosed to the writ petition as Annexure-4.

3. The petitioner No.1 is the President and the petitioner No.2 is the Secretary of the Koreya FCI Bazar Jame Masjid established in the year 1990. The petitioners herein claim that the Koreya FCI Bazar Jame Masjid stands on a plot of land at village Koreya Pahar in the District of Bongaigaon.

4. The case of the petitioners herein is that by the Resolution No. 43 dated 10.07.2013, the Sub-Divisional Officer (C), South Salmara, Abhayapuri resolved to allot an area of land measuring 2 kathas 10 lechas, out of total land 2 bighas 4 kathas 15 lechas covered by Dag No. 150 (Part) Village, Koreya Pahar in favour of the President/ Secretary, Koreya Pahar, FCI Masjid Ghar. The extract of the said resolution according to the petitioners is stated to be certified by the Sub-Divisional Officer (C), North Salmara, Abhayapuri. The said document is enclosed as Annexure- 1 to the writ petition.

5. Mr. M. U. Mondal, the learned counsel appearing on behalf of the petitioners submitted that on 22.12.2022, a Deed of Trust between Abdul Hakim and the petitioner No.2 was executed before the Senior Sub-Registrar, Kamrup (M), Guwahati to run the Koreya Bazar FCI Jame Masjid and on 23.12.2022, a certificate has been issued by the Officer of the Senior Sub-Registrar, Kamrup (M), Guwahati stating that the Koreya Pahar Bazar FCI Jame Masjid has been duly registered under the

provisions of the Indian Registration Act, 1908 under the Government of Assam.

6. The grievance of the petitioners however is that on 08.01.2026, the Circle Officer, Boithamari Revenue Circle issued an eviction notice to the petitioners asking them to vacate the schedule land on or before 23.01.2026, otherwise the petitioners would be evicted. In this regard, the petitioners have submitted a representation to the respondent No.4 on 17.01.2026 for settlement of the said plot of land.

7. Mr. M. U. Mondal, the learned counsel appearing on behalf of the petitioners submitted that no decision have been taken in respect to all the application by the Respondent Authorities. It is however pertinent to observe that filing of application seeking settlement prima facie appears that the petitioners have admitted that the land in question is a Government land. The learned counsel for the petitioners further submitted that the petitioners also have raised constructions over these lands.

8. The grievance of the petitioners however is that while their application seeking settlement are pending, the Respondent Authorities have issued notice under Section 18(3) of the Settlement Rules to the Petitioners. The said notice as already stated above has been enclosed as Annexure-4 to the writ

petition.

9. The learned counsel for the Petitioners submitted that the Respondent No.4 by way of the notice has directed the Petitioners to vacate the lands by 23.01.2026 without carrying out any adjudication as regards the rights of the petitioners qua the land under their possession. The learned counsel further submitted that this is a fit case where the impugned notice is required to set aside and quashed.

10. Per contra, Ms. N. Bordoloi, the learned Standing Counsel appearing on behalf of the Revenue Department submitted that the lands 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. She further submitted that instead of setting aside these notices, the notices be construed as Show Cause Notices upon the Petitioners and a period of 15 days can be granted to the Petitioners from today for submitting their representation along with necessary evidence to substantiate their claims to remain over the said land under their occupation. She further submitted that on the basis of the respective representation so submitted by the Petitioners along with the documents, the District Commissioner, Bongaigaon or the Co-District Commissioner can be directed to look into such

representation and thereupon pass Speaking Orders.

11. I have also heard Mr. S. S. Roy, the learned Government Advocate appearing on behalf of the Respondent Nos.1, 3 & 4 who also supports the submission of Ms. N. Bordoloi, the learned Standing Counsel appearing on behalf of the Revenue Department.

12. This Court has heard the learned counsels appearing on behalf of the parties and has given anxious consideration to their respective submissions. 13. The materials on record have been duly taken note of.

14. 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 in the Government land without permission or allotment granted by the competent authority.

15. 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.

16. This Court now finds it also relevant to take note of the notice which has been issued to the petitioners which has been enclosed to Annexure-4 is reproduced herein under:-

Govt. of Assam

OFFICE OF THE CIRCLE OFFICER, BOITHAMARI REVENUE CIRCLE

Date:-08.01.2026

To,

President / Secretary Koreya Pahar FCI Bazar Jame Masjid.

It is hereby informed you that by public notice dated 07.01.2026 the encroacher /unauthorized occupant were given public notice to vacate the area of Govt. khash land under village koreya pahar, borol kudi beel, Konora beel and doloni beel. In the enquiry it is seen that you are unauthorizedly occupying the Govt. Khash land at village koreya pahar covered by dag No. 150. Therefore, you are asked to vacate the said land by demolishing your houses of your own for removed the encroachment .

If you have any right over the said plot of land you can submit the required documents in the office of the undersigned on 23.01.2026.

Otherwise, as per the provision of the Assam Land and Revenue Regulation 1886, after the said date, at any time the encroacher would be evicted from the said land.

Today 08.01.2026 seal and signatures of the office are put.

Sd/- Circle Officer

Boithamari Revenue

Circle.

17. A perusal of the said notice reveals that on one hand the Respondent No.4 had asked the petitioners to vacate the land

under their occupation and on the other hand have asked the petitioners to submit their grievances on or before 23.01.2026. It appears that the manner in which the Respondent No.4 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 petitioners admittedly have received notice which has been enclosed as Annexure-4 to the writ petition and it would be in the interest of justice that instead of setting aside the notice, the said notices be construed as Show Cause Notices.

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

19. This Court is also of the opinion that when the petitioners are given the opportunity to submit their respective representations along with necessary evidences, an opportunity of personal hearing would also be required to be given to the Petitioners so that they are in a position to explain their 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.

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

- (i) The notice which had been issued to the petitioners enclosed as Annexure-4 to the writ petition shall be treated as Show Cause Notice issued to the petitioners.
- (ii) The petitioners having received the notice are given the liberty to submit their respective representations within 20 days from today.
- (iii) This Court further directs that such representations be submitted to the District Commissioner, Bongaigaon.
- (iv) The District Commissioner, Bongaigaon 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 petitioners who submit representation(s) in pursuance to the instant

judgment passed by this Court.

(v) The District Commissioner, Bongaigaon 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 notices so issued.

(vi) It is further observed and directed that the District Commissioner, Bongaigaon or the Co-District Commissioner shall pass Speaking Orders against the claims made by the petitioners who submit representation as per the liberty granted above.

(vii) It is further observed that in the circumstances, the Speaking Orders passed are against the claims of the petitioners who have submitted representation, no steps for eviction be carried out for a period of 15 days from service of such Speaking Orders upon the petitioners. In that regard, it shall be open to the District Commissioner, Bongaigaon 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.

(ix) Interim order passed on 13.02.2026 stands vacated.

JUDGE

Pradip Kumar Kalita

 Digitally signed by Pradip Kumar Kalita
Date: 2026.02.26 18:34:18 +05'30'

Comparing Assistant