

GAHC010010402026



2026:GAU-AS:2045

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

Case No. : WP(C)/433/2026

MOINUL HOQUE AND 35 ORS.
SON OF LATE KUTI MIYAN

2: SAMAR ALI
SON OF LATE HAMID ALI

3: ABDUL HOQUE
SON OF LATE SONA MIYAN

4: ABU BAKKAR
WIFE OF LATE SONA MIYAN

5: FARIZ UDDIN
SON OF LATE SONA MIYAN

6: ABDUL KADIR
SON OF LATE SONA MIYAN

7: NOOR ISLAM
SON OF LATE SAFIQU L HOQUE

8: BADRUL ISLAM
SON OF LATE SAFIQU L HOQUE

9: KAMRUL ISLAM
SON OF LATE SAFIQU L HOQUE

10: TAHIR ALI
SON OF LATE SONAHAR ALI

11: KAPIL UDDIN
WIFE OF LATE MAHAMMD ALI

12: SHARIF UDDIN
SON OF LATE MAHAMMD ALI

13: AMIN ALI
SON OF LATE YAKUB ALI

14: USMAN ALI
SON OF LATE YAKUB ALI

15: EUSUF ALI
SON OF YAKUB ALI

16: TAJ UDDIN
SON OF LATE SUAKHI MIYAN

17: TAMIJ UDDIN
SON OF LATE SUAKHI MIYAN

18: RAMIJ UDDIN
S/O LATE SUAKHI MIYAN

19: ABDUL MALIK
SON OF LATE KUTU MIYAN

20: MAYARUN NESSA
W/O LATE KUTU MIYA

21: BIBI AYESHA BEGUM
W/O LATE SULTAN ALI

22: RAHIM UDDIN
SON OF MUSADDAR ALI

23: RAJIB HUSSEIN
SON OF RAHIM UDDIN

24: KHACHURA BEGUM
W/O BOTO MIYA

25: ABDUS SAMAD
SON OF LATE HURMOT ALI

26: YUSUB ALI

SON OF LATE ABDUL HOQUE

27: IDRIS ALI
SON OF ABDUL HOQUE

28: AS Aid ALI
SON OF ABDUL MIYAN

29: ANAMUL HUSSEIN
SON OF LATE ISHAK ALI

30: ABDUL MALIK
SON OF LATE ABDUL KHALIK

31: FAIJUL HOQUE
SON OF LATE YAKUB ALI

32: TAJ UDDIN
SON OF MAHAMMAD ALI

33: KHALID HUSSEIN
SON OF LATE NOOR UDDIN

34: TOIBUR RAHMAN
SON OF LATE MOJAHID ALI

35: SAFIQR RAHMAN
SON OF LATE MOJAHID ALI

36: BILAL AHMED
SON OF LATE MOJAHID ALI
ALL ARE RESIDENT OF VILLAGE-UDMARI-TANGIA
P.O.- KARAIGURI
DISTRICT-HOJAI
ASSAM. PIN NO. 782440
VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI -781006.

2:THE SPECIAL CHIEF SECRETARY TO THE GOVT OF ASSAM
ENVIRONMENT AND FORESTS DEPARTMENT
ASSAM SECRETARIAT COMPLEX
DISPUR
GUWAHATI- 781006.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
ARANYA BHAWAN
PANJABARI
GUWAHATI 781037.

4:THE DIVISIONAL FOREST OFFICER
SOUTH NAGAON DIVISION
P.O. HOJAI
ASSAM. PIN-782435

5:THE FOREST RANGE OFFICER
JAMUNA VALLEY RANGE
DOBOKA
DISTRICT HOJAI
ASSAM. PIN-782440.

6:THE DISTRICT COMMISSIONER
HOJAI
SANKARDEV NAGAR
ASSAM. PIN782442

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s)	: Mr. A.J. Atia, Advocate
For the Respondent(s)	: Mr. S. S. Roy, Government Advocate Mr. D. Gogoi, Standing Counsel

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **12.02.2026**
- 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. A.J. Atia, the learned counsel appearing on behalf of the Petitioners. I have also heard Mr. S.S. Roy, the learned Government Advocate appearing on behalf of the respondent Nos. 1 and 6 and Mr. D. Gogoi, the learned Standing counsel appearing on behalf of the Respondent Nos. 2 to 5.

2. Thirty-six (36) writ Petitioners joined together to file the instant writ petition challenging the notice dated 12.01.2026 issued by the Respondent Authorities and further seeking that the Respondent Authorities be restrained from disturbing the peaceful possession of the Petitioners and carrying out any demolition or eviction in respect to their houses and residential plots at Udmari Tangia Forest Village under Jamuna Valley Range of South Nagaon Forest Division, Hojai District.

3. The case of the Petitioners herein are that they have been

residing in the Udmari Tangia Forest Village under Jamuna Valley Range of South Nagaon Forest Division, Hojai District for many years. It is claimed by the Petitioners that the original pattadars through lawful and valid means have granted the Petitioners permission to reside upon the said lands and cultivate the lands.

4. On 12.01.2026, notices were issued by the Divisional Forest Officer, South Nagaon Forest Division, Hojai to the various Petitioners. The Petitioners apprehended that on the basis of the said notice dated 12.01.2026, the Petitioners would be evicted and as such, the Petitioners have approached this Court.

5. This Court has heard the learned counsel appearing on behalf of the parties including the counsel who appears on behalf of the Forest Department.

6. Mr. D. Gogoi, the learned Standing counsel appearing on behalf of the Forest Department submitted that the said notices were issued in pursuance to the directions passed by the learned Division Bench of this Court in the Judgment dated 18.08.2025 passed in Writ Appeal No.251/2025 and Writ Appeal No.252/2025. He further submitted that against the said judgment passed by the learned Division Bench of this Court dated 18.08.2025, Special

Leave to Appeals were filed before the Supreme Court and vide a judgment dated 10.02.2026, the Supreme Court disposed of those appeals by issuing certain directions. The learned Standing counsel further submitted that in view of the said observations and directions made by the Supreme Court, the Forest Department now would take steps in accordance with the said directions passed.

7. This Court enquired with Mr. A.J. Atia, the learned counsel appearing on behalf of the Petitioners as to whether the lands in question wherein the Petitioners are residing fall within the reserved forest. The learned counsel for the Petitioners submitted that the lands under their occupation no doubt are reserved forest land but they were issued settlement certificates for temporary settlement under the Tonguya/Tangiya system in the year 1974.

8. This Court has duly perused the judgment of the Supreme Court in the case of ***Abdul Khalek and Others Vs. The State of Assam and Others*** dated 10.02.2026. A perusal of the said judgment reveals that while those appeals were pending before the Supreme Court, an additional affidavit was filed on 18.01.2026 by the State of Assam, the contents of which were reproduced in the said judgment. The Supreme Court at paragraph No.12 of the said judgment delineated the policy decision of the State of Assam to

remove unauthorized occupation from the reserve forest. In addition to that, the Supreme Court also observed at Paragraph No.13 that on behalf of the State of Assam, the learned Solicitor General has assured that the mechanism evolved by the State shall be complied with objectively and with fairness while taking action for removal of unauthorized occupation in the reserved forest.

9. Taking into account the said, this Court finds it relevant to reproduce paragraph Nos. 12 and 13 of the said judgment in the case of ***Abdul Khalek and Others (supra)***.

“12. Thus, from perusal of aforesaid additional affidavit filed on behalf of the respondents, the following policy decision to remove unauthorised occupation from the reserved forest has been taken:

- (i) The respondents shall constitute a committee comprising forest officials and the revenue officials.*
- (ii) The said committee shall issue notice to the alleged unauthorised occupants and shall give them an opportunity to adduce evidence to show that they have the right to occupy the land which is in their possession.*
- (iii) The action for removal of encroachment shall be taken, only if it is found that there is an encroachment in the*

reserved forest area.

- (iv) In case the noticee is found to be within the revenue limits, outside the notified forest area, the details of the noticee shall be sent to the revenue department. In such cases, revenue department shall decide the future course of action.*
- (v) The action is being taken by the State to remove encroachment from the reserved forest areas and has nothing to do in respect of the matters which may be referred to the revenue department.*
- (vi) If an unauthorised occupation is found in a reserved forest area, after scrutiny of the documents, a speaking order shall be passed and shall be served on the concerned person giving him 15 days notice to vacate the unauthorized occupation and only after expiry of the period of notice, the action shall be taken to remove the unauthorised occupants.*
- (vii) Occupation of a Gaon Panchayat in a forest is permissible if there is a sufficient proof as per the Jamabandi Register maintained by the Forest Department or as provided under the Forest Rights Act.*

13. *In our opinion, the course of action to be adopted by the State Government while removing the encroachment from the reserved forest contains sufficient procedural safeguards. The process sought to be adopted by the State Government for removal of encroachment conforms to the principles of fairness, reasonableness and due process. Learned Solicitor General has assured us that the mechanism evolved by the State shall be complied with objectively and with fairness while taking action for removal of unauthorised occupation in the reserved forests. The parties are directed to maintain status quo in respect of land in occupation of the appellants/writ petitioners till speaking order is passed and till expiry of notice period of 15 days. All contentions are kept open to be agitated before the committee. It is clarified that this Court has not expressed any opinion on merits of the claim of the parties, as the same has to be examined by the committee."*

10. In view of the observations made by the Supreme Court at Paragraph Nos. 12 and 13, it is the opinion of this Court that the instant writ petition can be disposed of in the similar manner thereby directing the Respondent Authorities to carry out the required procedure and steps in terms with the directions passed by the Supreme Court at Paragraph Nos. 12 and 13 in the case of ***Abdul Khalek and Others (supra)*** as quoted herein above.

11. Accordingly, the instant writ petition therefore stands disposed

of with directions upon the Respondent Authorities more particularly the Forest Department, Revenue Department, District Administration as well as the Police Authorities who are parties to the instant proceedings to comply as per the directions passed by the Supreme Court at Paragraph Nos. 12 and 13 in the case of ***Abdul Khalek and Others (supra)***.

12. Mr. A.J. Atia, the learned counsel appearing on behalf of the Petitioners submitted that some form of interim directions may be given.

13. At Paragraph No.13 of the judgment of the Supreme Court in the case of ***Abdul Khalek and Others (supra)***, the Supreme Court has categorically mentioned that the parties were directed to maintain *status quo* in respect of land in occupation till Speaking Orders are passed. The Petitioners therefore are also entitled to similar directions to the extent that the parties herein shall maintain *status quo* in respect to the land in occupation of the Petitioners till the directions in terms with Paragraph No.12 of the judgment passed by the Supreme Court in the case of ***Abdul Khalek and Others (supra)*** are not complied with.

14. This Court has not decided on the merits of the inter-se

dispute while passing the instant judgment which shall be decided by the Committee to be constituted as per the judgment of the Supreme Court.

15. Interim order passed earlier stands vacated.

JUDGE

Digitally signed by Satyam Sharma
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Comparing Assistant