

GAHC010025272026



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

Case No. : WP(C)/704/2026

TOMSER ALI
S/O GHARU SHEIKH
R/O VILLAGE KUKILARPAR (GOTABARI)
P.O.- HAZIRHAT
P.S - SUKCHAR. DIST. - SOUTH-SALMARA-MANKACHAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE AND DISASTER MANAGEMENT
DEPARTMENT, DISPUR, GUWAHATI - 6.

2:THE COMMISSIONER AND SECRETARY
PUBLIC WORKS(ROAD) DEPARTMENT
DISPUR
GUWAHATI - 6

3:THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT(ROADS)
CHANDMARI
GUWAHATI - 3.

4:THE DISTRICT COMMISSIONER
SOUTH SALMARA-MANKACHAR
DIST. - SOUTH SALMARA-MANKACHAR
ASSAM.

5:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT MANKACHAR TERRITORIAL ROAD SUB-
DIVISION
MANKACHAR

DIST. - SOUTH SALMARA-MANKACHAR
ASSAM.

6:THE CIRCLE OFFICER
SOUTH SALMARA REVENUE CIRCLE
DIST. - SOUTH SALMARA-MANKACHAR
ASSAM

For the petitioner (s) : Mr. M. A. I. Hussain, Advocate

For the respondent (s) : Ms. G. Hazarika, SC, Revenue
Mr. B. Choudhury, SC, PWD
Mr. N. Goswami, Govt. Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

09.02.2026

Issue notice making it returnable on 16.02.2026.

2. Ms. G. Hazarika, the learned counsel accepts notice on behalf of the respondent No.1; Mr. B. Choudhury, the learned counsel accepts notice on behalf of the respondent Nos.2, 3 & 5 and Mr. N. Goswami, the learned counsel accepts notice on behalf of the respondent Nos.4 & 6. Extra copies of the writ petition be served upon them during the course of the day.

3. The petitioner herein is aggrieved by the action on the part of the Respondent Authorities, more particularly the respondent No.6 in carrying out an eviction from the patta land of the petitioner in the name of roadside land.

4. The learned counsel appearing on behalf of the petitioner submitted that on the earlier occasion also, the petitioner had submitted an application seeking demarcation of his land to the extent as to whether the petitioner had trespassed into the land reserved for roadside construction. The learned counsel for the petitioner further submitted that this very application was also forwarded by the respondent No.4 to the respondent No.6, but the respondent No.6 did not take any steps in that regard and a notice was issued on 04.02.2026 which the petitioner received on 05.02.2026 and on 06.02.2026, the petitioner was evicted. The learned counsel appearing on behalf of the petitioner further submitted that the said aspect not only violates the principles of natural justice, but also the law as laid down by the learned Division Bench of this Court in the case of ***Md. Salak Uddin vs. the State of Assam & Others***, reported in ***(2024) SCC OnLine Gau 921***.

5. This Court has also perused the notice dated 04.02.2026 and it surprises this Court that the said notice is vague in as much as there is no mention as to the area where the petitioner had encroached or for that matter, how much the petitioner had encroached into the roadside land.

6. The learned counsel appearing on behalf of the petitioner submitted that on the basis of this eviction being carried out, steps

are being taken for the purpose of construction, and as such, certain interim directions may be passed.

7. This Court having considered the said aspect is of the opinion that the petitioner herein is entitled to certain interim directions till the next date. Accordingly, this Court therefore directs the respondent Nos.2, 3 & 5 not to carry out any construction over the area of the land from where the petitioner had been evicted pursuant to the notice dated 04.02.2026.

8. The learned counsel appearing on behalf of the petitioner submitted that the translated copies of Annexures 3 & 5 on account of urgency may not have been properly translated. He, therefore, submitted that he may be permitted to file an additional affidavit bringing on record the proper translated copies of the said documents.

9. The petitioner is given the liberty to file an additional affidavit bringing on record the proper translated copies of Annexures 3 & 5.

10. Mr. B. Choudhury, the learned counsel appearing on behalf of the respondent Nos.2, 3 & 5 shall apprise the said Officer about the order so passed today during the course of the day.

JUDGE

Comparing Assistant