

GAHC010032652026



2026:GAU-AS:2553

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

Case No. : WP(C)/891/2026

PACHIM BORAGAON SEWJI JAME MASZID COMMITTEE ALIAS
RAJUKHUWA MASZID AND 2 ORS.
VILL- PACHIM BORAGAON,P.O P.S.- GARCHUK, DIST- KAMRUP (METRO),
ASSAM.PIN- 781035.

2: MAFIJUR RAHMAN
S/O- HABIBUR RAHMANVILL- PACHIM BORAGAON
DIST- KAMRUP (METRO)
ASSAM.

3: INTAJ ALI
S/O- MANGAL UDDIN
VILL- TAPABARI
DIST- KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS.
TO BE REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT
OF ASSAM, JANATA BHAWAN ASSAM SECRETARIAT COMPLEX, DISPUR,
GUWAHATI- 781006

2:COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE DISASTER MANAGEMENT DEPARTMENT
JANATA BHAWAN (ASSAM SECRETARIAT COMPLEX)
DISPUR
GUWAHATI- 781006

3:DISTRICT COMMISSIONER
KAMRUP (METRO)
ASSAM.

4:COMMISSIONER OF POLICE

COMMISSIONARATE OF POLICE KHANAPARA
GUWAHATI
ASSAM.

5:CIRCLE OFFICER

GUWAHATI REVENUE CIRCLE
GUWAHATI
ASSAM.

6:OFFICER IN CHARGE

GARCHUK POLICE STATION
GUWAHATI
ASSAM

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. A. R. Bhuyan, Advocate

For the Respondent(s) : Mr. N. Goswami, Govt. Advocate
Mr. J. Handique, SC, Revenue

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 17.02.2026

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. A. R. Bhuyan, the learned counsel appearing on
behalf of the petitioners. Mr. J. Handique, the learned counsel

appears on behalf of the Revenue Department and Mr. N. Goswami, the learned Government Advocate appears on behalf of the State respondents.

2. Three (3) writ petitioners have joined together to file the instant writ petition complaining about the notice issued by the Respondent No.5 which has been enclosed to the writ petition as Annexure-6.

3. The Petitioners, A Maszid Committee, represented by its Secretary and President herein claim that they are in possession of a plot of land at village Paschim Boragaon in the District of Kamrup (M).

4. The possession of the Petitioners over the land is through land sale agreement entered into with original pattadar and has been under control and care of the Petitioners for several years. It is therefore the case of the Petitioners that it is not a case that the Petitioners are encroachers but they are in settled possession upon permissions being granted by the original pattadar. Be that as it may, it is also an admitted fact as would be seen from the Paragraph No.6 of the writ petition that the Petitioners have applied for settlement of land under Mission Basundhara Scheme 2.0 seeking the regularization of the long-standing possession over the land situated at Paschim Boragaon.

5. Mr. A. R. Bhuyan, the learned counsel appearing on behalf of the Petitioners submitted that no decision have been taken in respect to all these applications 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 these are Government lands. The learned counsel for the Petitioners further submitted that the Petitioners also have raised constructions over these lands and have been issued Holding Numbers by the Guwahati Municipal Corporation and the said documents have also been enclosed to the present writ petition.

6. The grievance of the Petitioners however is that while their applications seeking settlement are pending, the Respondent Authorities have issued notice under Section 18(3) of the Settlement Rules to the Petitioners on various dates. The said notice as already stated above has been enclosed as Annexure-6 to the writ petition.

7. The learned counsel for the Petitioners submitted that the Respondent No.5 by way of the notice has directed the Petitioners to vacate the lands within 15 days without carrying out any adjudication as regards the rights of the Petitioners qua the lands under their possession. The learned counsel further submitted that on one hand, the Petitioners have been asked to

vacate within 15 days and on the other hand, the Petitioners have been also asked to appear for hearing on the 14th day of the notice which means that even if any representation is submitted, it would not be a meaningful exercise. He therefore submitted that this is a fit case where the impugned notices are required to set aside and quashed.

8. Per contra, N. Goswami, the learned Government Advocate appearing on behalf of State respondents 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 respective representation(s) 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 each Petitioner along with the documents, the District Commissioner, Kamrup (Metro) or the Co-District Commissioner can be directed to look into such representations and thereupon pass Speaking Orders.

9. I have also heard Mr. J. Handique, the learned Standing Counsel, Revenue Department who also supports the submission of Mr. N. Goswami, the learned Government Advocate.

10. This Court has heard the learned counsels appearing on behalf of the parties and has given anxious consideration to their respective submissions.

11. The materials on record have been duly taken note of.

12. 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 of Government land without permission or allotment granted by the competent authority.

13. 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.

14. This Court now finds it also relevant to take note of the notice which has been issued to the Petitioners. The said notice enclosed to the present writ petition as Annexure-6 is reproduced herein under:

**“OFFICE OF THE CIRCLE OFFICER ::: GUWAHATI REVENUE CIRCLE (KAMRUP
METROPOLITAN DISTRICT) -**

No. G.C.49/2015/851-925

Date : 04/02/2026

To ,
Sri Rajukhuwa Mazid
Govt. Dag No.1716,
Jalukbari Mouza.

Whereas you have been found to be in unauthorized possession of a plot of land under Dag No. 1716 which is Government Khas land, without any lawful authority.

And whereas, as per the order of the District Commissioner vide Order No.KRC(M)373/2023/Misc/39 dated: 03/02/2026, any unauthorized occupant of Government land is required to vacate the land within 15 days from the date of publication of this notice under Section 18(3) of the Assam Land and Revenue Regulation, 1886.

And whereas it has also been observed that you have erected certain structures on the said land in the form of shops/school/houses/tin-shed/boundary fencing, which are also required to be removed within the stipulated time mentioned above.

Therefore, you are hereby directed to vacate the Government land under your unauthorized possession and remove all structures standing thereon on or before 19/02/2026.

However, if you wish to make any representation in this regard, you may appear before the undersigned on 18/02/2026 at 11:00 A.M.

Circle Officer
Guwahati Revenue Circle
Kamrup (M) District"

15. A perusal of the said notice reveals that on one hand, the Petitioners have been asked to vacate within 15 days from the date of publication of the notice and on the other hand, the Petitioners have also been asked to submit representation and appear before the Respondent No.5 on 18.02.2026 at 11 AM.

16. The contents of the said notice quoted above do not inspire the confidence of this Court taking into consideration that on one hand the Respondent No.5 had asked the Petitioner to vacate the land under their occupation and on the other hand have asked the Petitioner to appear one day prior to the date fixed for the Petitioner to vacate. It appears that the manner in which the Respondent No.5 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-6 to the writ petition, it would be in the interest of justice that instead of setting aside the notice, the said notice be construed as Show Cause Notice.

17. The Petitioners can be granted the liberty to submit their respective 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.

18. 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.

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

(i) The notice which has been issued to the Petitioners enclosed as Annexure-6 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 respective representation within 20 days from today.

(iii) This Court further directs that such representation be submitted to the District Commissioner, Kamrup (Metro).

(iv) The District Commissioner, Kamrup (Metro) 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, Kamrup (Metro) 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 notice so

issued.

(vi) It is further observed and directed that District Commissioner, Kamrup (Metro) or the Co-District Commissioner shall pass Speaking Orders against the respective 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, Kamrup (Metro) 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.

JUDGE

Comparing Assistant