

GAHC010034032026



2026:GAU-AS:4095

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

Case No. : WP(C)/1055/2026

129 NO HARIA DABLONG MEEN SAMABAY SAMITI LTD. AND ORS
BEING REPRESENTED BY ITS SECRETARY, SRI KUSHAL DAS, VILLAGE-
AMKATA, P.O.-KHULAGAON, P.S.-JAGIROAD, MORIGAON DISTRICT,
PINCODE-782411, ASSAM.

2: SRI KUSHAL DAS
SON OF LATE BOLO RAM DAS
RESIDENT OF VILLAGE-AMKATA
..P.O.- KHULAGAON
P.S.-JAGIROAD
DISTRICT- MORIGAON
ASSAM
PIN-782411

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY, FISHERY
DEPARTMENT, GOVERNMENT OF ASSAM, DISPUR, GUWAHATI-781006,
ASSAM

2:THE COMMISSIONER AND SECRETARY
FISHERY DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-781006
ASSAM.

3:THE SECRETARY
WATER RESOURCES DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-781006
ASSAM.

4:THE DISTRICT COMMISSIONER

MORIGAON DISTRICT
MORIGAON
PINCODE-782105
ASSAM.

5:THE CIRCLE OFFICER
MAYONG REVENUE CIRCLE
JAGI BHAKATGAON
PINCODE-782411
MORIGAON DISTRICT
ASSAM

Advocate for the Petitioner : MR S KHOUND, MR. M K CHOUDHURY,MR D J MEDHI

Advocate for the Respondent : GA, ASSAM, MS P CHAKRABORTY, SC, WATER RESOURCES DEPTT.,SC, FISHERY

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 20.03.2026

Heard Mr. S. Khound, learned counsel for the petitioner; Mr. P. Sharma, learned Standing Counsel, Fishery Department for the respondent nos. 1 & 2; Ms. P. Siyei, learned counsel on behalf of Ms. P. Chakraborty, learned Standing Counsel, Water Resources Department for the respondent no. 3; and Ms. U. Das, learned Additional Senior Government Advocate, Assam for the respondent nos. 4 & 5.

2. The petitioner, a registered fishery cooperative society, is the current settlement holder of No. 38 Morisuti Meen Mahal and the settlement period is for a period of seven years on and from 16.09.2021. The area of the fishery, No. 38 Morisuti Meen Mahal comprises of 202 Bighas, 1 Katha & 10 Lessas [202B-01K-10L] and it inter-alia comprises of lands covered by Dag nos, 75, 159 & 161.
3. The petitioner society has approached this Court by the present writ petition on an

apprehension that the respondent no. 5 has issued a Notice under Rule 18 of the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886 on 22.01.2026 wherein the noticees in occupation of land covered by Dag nos. 75, 159 & 161 have also been put to notice on the ground that they are in unauthorized occupation of the areas of land comprised within the above Dag nos. Though the petitioner society has not been served with such notice, the petitioner society has come to learn about the same and one of such Notice has been annexed as Annexure-VIII to the writ petition.

4. On perusal, the three Dag nos. 75, 159 & 161 are found to be made part of the Notice dated 22.01.2026 [Annexure-III].
5. When the possession of the Fishery, that is, No. 38 Morisuti Meen Mahal was handed over to the petitioner society as the settlement holder on 16.09.2021 by the Circle Officer, Mayang Revenue Circle [the respondent no. 5], it was clearly mentioned that the Fishery, having an area of 202 Bighas 1 Katha 10 Lessas [202B-01K-10L], is comprised of parcels of land falling within Dag nos. 75, 159 and 161.
6. On 13.03.2026, apart from the instructions sought for in the previous Order dated 25.02.2026, the learned counsel for the respondent nos. 1 & 2 and the respondent nos. 4 & 5 were told to obtain instructions **firstly**, what are the total areas in each of the respective Dag nos. 75, 159 and 161; **secondly**, out of the total areas of each Dag no., how much areas are earmarked for 38 No. Morisuti Meen Mahal; and **thirdly**, whether any notice under Rule 18 of the Settlement Rules has been issued or is contemplated to be issued the petitioner society as the settlement holder of No. 38 Morisuti Meen Mahal.
7. Today, both Mr. Sharma and Ms. Das have placed instructions they have received from the Fishery Department, Government of Assam vide a Letter, eCF no. FISH/E-770012/08 dated 17.03.2026 and the District Commissioner, Morigaon vide a Letter, eCF no. MRF/543528 dated 17.03.2026, respectively, stating that they have permission to do so.

8. In the instructions placed by the Fishery Department, it is mentioned that as per available records, the Fishery Department has neither issued any order nor initiated any proceeding in respect of No. 38 Morisuti Meen Mahal, which has stood settled with the petitioner society for a period of seven years from January, 2018. No communication had been received by the Fishery Department from the Circle Officer, Mayong Revenue Circle regarding issuance of any Notice dated 22.01.2026 or in any other related proceeding. It is further mentioned that the Fishery Department has not received any report indicating existence of any possession-related dispute concerning the fishery. It has come to the notice of the Fishery Department that a Notice dated 22.01.2026 under Rule 18 of the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886 had been issued from the Office of the Circle Officer, Mayong Revenue Circle in respect of areas of land falling under Dag nos. 75, 159 and 161, which form part of the settled fishery, No. 38 Morisuti Meen Mahal.
9. It is asserted that once a fishery is declared under Section 16 of the Assam Land and Revenue Regulation, 1886, the rights, settlement and management of such fisheries are governed in terms of the Assam Fishery Rules, 1953 framed under Sections 155 and 156 of the said Regulation, and the authority competent to deal with such fisheries are well delineated. The administrative control over natural water bodies would then be vested with the Fishery Department and any action affecting any settled fishery is required to be in conformity with the statutory framework. Any proceeding initiated in respect of land forming part of a duly settled fishery are to be examined in the light of the extant legal provisions and the subsisting settlement, so as to ensure that actions are taken within the scope of the competent authority and with due procedural propriety. As No. 38 Morisuti Meen Mahal is a duly settled Government fishery under the administrative control of the Fishery Department and the settlement is presently subsisting, any action having a bearing on the possession, enjoyment or extent of the fishery area would require due consideration of the appropriate level and proper coordination of the Fishery Department.
10. In the Instructions placed by the Deputy Commissioner, Morigaon, it is mentioned that

a Report has been submitted by the Circle Officer, Mayong Revenue Circle to the effect that Morisuti Tup Beel has been identified by the Water Resources Department, Government of Assam for the construction of 'Flood Mitigation Capacity Augmentation of Morisuti Tup Beel, Morigaon Assam' vide its Office Letter no. NGWRD/W-374/2025/7574 dated 06.01.2026. The Circle Officer, Mayong Revenue Circle has, thereafter, issued notices to the encroachers to vacate the lands of the Beel. The Circle Officer has reported that the areas under the three Dag nos. 75, 159 and 161 measuring 202 Bighas, 1 Katha & 10 Lessas [202B-01K-10L] have been earmarked for Morisuti Tup Beel. A Report dated 17.03.2026 of the Circle Officer has also been annexed with the Letter dated 17.03.2026 of the District Commissioner, Morigaon. In the Report of the Circle Officer, it is stated that notice under Rule 18 of the Settlement Rules has not been issued to the petitioner society. The notices are only issued to the unauthorized occupants, local encroachers to vacate the lands of Morisuti Tup Beel.

11. From the above Instructions placed by the Fishery Department, Government of Assam and the District Commissioner, Morigaon, it is evident that the apprehension raised by the petitioner in this writ petition has no material basis and is a misplaced one. The Notices under Rule 18 has been issued to unauthorized occupants/encroachers of the areas falling within the lands earmarked for No. 38 Morisuti Meen Mahal / Morisuti Tup Beel and no notice has been issued by the Circle Officer, Mayong Revenue Circle to the petitioner Society till date. If any notice under Rule 18 has been issued to any unauthorized occupants/encroacher of lands falling within Dag nos. 75, 159 and 161, the same is likely to make the areas of No. 38 Morisuti Meen Mahal / Morisuti Tup Beel encroachment free.
12. It is settled that an eviction process can be carried out only after a issuance of a notice under Rule 18 of the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886. As no notice has been issued to the petitioner Society till date, no cause of action is found available to the petitioner society to maintain the writ petition. The writ petition is accordingly closed.
13. The Instructions placed by the Fishery Department, Government of Assam vide a

Letter, eCF no. FISH/E-770012/08 dated 17.03.2026 and the District Commissioner, Morigaon vide a Letter, eCF no. MRF/543528 dated 17.03.2026, placed by Mr. Sharma and Ms. Das, are kept with the case record, by marking it as Document – 'X' and Document – 'Y' respectively.

JUDGE

Comparing Assistant