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

Case No. : WP(C)/2162/2021

SABITA PAUL
W/O- LT. BIDYA PAUL, R/O- WARD NO. 10, KOKRAJHAR TOWN, P.O., P.S.
AND DIST.- KOKRAJHAR, BTR, ASSAM, PIN- 783370

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE PRINCIPAL SECY./ COMMISSIONER AND SECY., GOVT. OF
ASSAM, HOME AND POLITICAL DEPTT., DISPUR, GHY-6

2:THE DY. COMMISSIONER
DISTRICT KOKRAJHAR
KOKRAJHAR
BTR
ASSAM
PIN- 783370

3:THE ADDL. DY. COMMISSIONER
DISTRICT KOKRAJHAR
KOKRAJHAR
BTR
ASSAM
PIN- 783370

4:THE SUPERINTENDENT OF POLICE
KOKRAJHAR
KOKRAJHAR
BTR
ASSAM
PIN- 783370

5:THE OFFICER-IN-CHARGE

KOKRAJHAR P.S.
KOKRAJHAR
BTR
ASSAM
INDIA
PIN- 783370

6:SNEHALATA DAS
W/O- LT. NITYANANDA DAS
R/O- KACHARI ROAD
WARD NO. 6
KOKRAJHAR
P.O.
P.S. AND DIST.- KOKRAJHAR
BTR
ASSAM
PIN- 783370

7:NITUL CH. DAS
S/O- LT. NITYANANDA DAS
R/O- KACHARI ROAD
WARD NO. 6
KOKRAJHAR
P.O.
P.S. AND DIST.- KOKRAJHAR
BTR
ASSAM
PIN- 783370

8:ANITA DAS
W/O- SRI NITUL DAS
R/O- KACHARI ROAD
WARD NO. 6
KOKRAJHAR
P.O.
P.S. AND DIST.- KOKRAJHAR
BTR
ASSAM
PIN- 78337

Advocate for the Petitioner : MR. B J MUKHERJEE, MS R SAHA

Advocate for the Respondent : GA, ASSAM, J M BAISHYA(R-8),H THAKURIYA (R-8),MS. B D SARMAH(R-8),MR. U K DAS(R-8),SC, BTC

BEFORE
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

06-03-2026

1. The present writ petition raises a question that goes beyond the confine of a private dispute between a tenant and a landlord. At its core lies a constitutional concern whether the coercive machinery of the State can be employed to dispossess a tenant from the settled possession in the absence of authority under law.
2. The facts giving rise to the present petition are neither complicated nor seriously disputed, but their implication strikes at the very foundation of Rule of law.
3. The petitioner asserts that she was in occupation of the premise in question as a tenant. The private respondent, landlord instituted a Civil Suit registered as T.S. No. 2/2020 seeking a decree for *Khas* possession of the rented premises and for a decree of Rs. 49,280/-as arrear of house rent from the months of October 2018 to December 2019 as well as for a decree of Rs. 5,000/-as damages.
4. The said room was measuring 12^{ft} x 24^{ft} as described in the schedule of the plaint.
5. Thus, by instituting said Suit, the landlord necessarily acknowledged the petitioner's possession and invoked jurisdiction of the Civil Court for recovery of possession as well as arrear of house rent.
6. While aforementioned Suit was pending for adjudication, the landlord

approached the local police authority on 25.12.2020, *inter alia* alleging that after dissolution of the tenancy on its expiry in the year 2016, the tenant was running his business and paying rent only till September 2018. When the tenant was asked for rent, the tenant fled away to an unknown place.

The tenant was also untraceable on her phone number and accordingly, having no alternative, the FIR was filed, it was stated in the FIR.

7. Aforesaid FIR was registered as Kokrajhar P.S. Case No. 790/2020. After completion of the investigation, police submitted charge sheet under Sections 406/420/506 IPC and the matter was placed before the learned Chief Judicial Magistrate (CJM), Kokrajhar.
8. Accordingly, CJM, Kokrajhar under its order dated 30.01.2021 took cognizance of the offence. A summon was issued to the accused person.
9. While the matter was pending at that stage, the Inspector of Police-cum-Officer-in-Charge, Kokrajhar police station by its communication dated 29.01.2021, requested the District Magistrate, Kokrajhar to depute one Executive Magistrate to vacate the unpaid rented premise.
10. The content of the aforesaid communication reflects that such eviction was sought as the tenant willfully and deliberately defaulted to pay monthly house rent and the room was locked since September 2018.
11. Based on such request, the impugned order dated 09.02.2021 was passed by the Additional Deputy Commissioner, Kokrajhar, by which

the Circle Officer-cum-Executive Magistrate, Kokrajhar was detailed to attend for law and order during eviction of the tenant.

12. On 10.02.2021, notice was issued by the Officer-in-Charge to the petitioner asking her to present at the tenanted premise on 11.02.2021 at 10:00 am. However, the petitioner could not be present in the tenanted premise on that day. Subsequently, the respondent Nos.7 & 8 along with some police personnel of Kokrajhar Police Station by breaking the locks of the shutter entered the room in her absence.
13. The issue which arises is whether the police authority and the district administration possess jurisdiction or authority to evict the person from possession of immovable property merely on the basis of an FIR in absence of any decree or statutory order authorizing such eviction.
14. At this stage, it is submitted by the learned counsel for the petitioner that a settlement has been arrived at between the petitioner and the respondent landlord, inasmuch as, the respondent No.6 has duly compensated for the illegal action and the petitioner is not interested to claim for possession over the tenant premise.
15. Based on such assertion, this Court could have closed this matter. However, taking note of the legal issue and purported excess of exercise of power, this Court deems it appropriate to implead the Officer -in-Charge of Kokrajhar Police Station under whose authority the communication was issued and the Additional Deputy Commissioner, Kokrajhar under whose authority, the aforesaid order was issued and the Circle Officer in whose presence the eviction was carried out.

16. Accordingly, this Court has requested Mr. D. Nath, learned Senior Government Advocate, Assam to obtain the details of these three officers, so that this Court can implead them for proper adjudication of this proceeding after hearing them.
17. List this matter again on **13.03.2026** for further hearing.

JUDGE

Comparing Assistant