

GAHC010142712022



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

Case No. : WP(C)/5026/2022

SHAHNAZ RASUL MANSOOR @ SHAHNAZ RASUL AND 3 ORS
S/O LT. IFTEKHAR RASUL@ ZIAUR RASUL,
R/O DANISH ROAD, LAKHTOKIA, GUWAHATI- 781001, ASSAM, DIST.-
KAMRUP(M)

2: EVAN ZIAUR RASUL
S/O LT. IFTEKHAR RASUL@ ZIAUR RASUL

R/O DANISH ROAD
LAKHTOKIA
GUWAHATI- 781001
ASSAM
DIST.- KAMRUP(M)

3: ZOHEB RASUL
S/O LT. IFTEKHAR RASUL@ ZIAUR RASUL

R/O DANISH ROAD
LAKHTOKIA
GUWAHATI- 781001
ASSAM
DIST.- KAMRUP(M)

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
GENERAL ADMINISTRATION DEPTT., DISPUR, GUWAHATI- 6.

2: THE GUWAHATI MUNICIPAL CORPORATION
TO BE REP. BY ITS COMMISSIONER
PANBAZAR
GUWAHATI- 1.

3:THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
TO BE REP. BY ITS CHIEF EXECUTIVE OFFICER
BHANGAGARH
GUWAHATI- 7
ASSAM.

4:MUSTT. SHAMIM SIRAJ HAZARIKA
W/O LATE SIRAJ HAZARIKA

R/O M.A.ROAD
NEAR HAWELI RESIDENCY
REHABARI
GUWAHATI- 781008
ASSAM
KAMRUP(M).

5:MAJAJ RASUL
S/O LT. EJAJ RASUL

R/O 5TH FLOOR
PRAGOTI APARTMENT
LAKIMI PATH
BELTOLA
GUWAHATI
ASSAM
KAMRUP(M).

6:JINA RASUL TALUKDAR
W/O SEEMANTA TALUKDAR

R/O FLAT NO. 504
JAMINI APARTMENT
HATIGAON ROAD
DISPUR
GUWAHATI- 781006
ASSAM
KAMRUP(M)

Advocate for the Petitioner : MR A R BHUYAN

Advocate for the Respondent : SC, GAD

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 03-08-2022

Heard Mr. A.R. Bhuyan, learned counsel for the writ petitioner. Also heard Mr. P. Nayak, learned standing counsel, GMC & GMDA.

Perused the averments made in the writ petition as well as the notice dated 27-06-2022 issued by the respondent No. 2.

Although Mr. Bhuyan submitted that there is a possibility of demolition of the structure standing upon the private patta land of the writ petitioners, yet, I do not find any such reflection in the impugned notice dated 27-06-2022. However, taking note of the apprehension expressed by the writ petitioners that the impugned action is initiated based on a complaint loaded by a 3rd party i.e. the private respondents having a vested interest in the matter, I am inclined to examine the grievance expressed in the writ petition.

Issue notice of motion returnable in 06 weeks.

Since Mr. A. Phukan, learned standing counsel, GAD has appeared on behalf of respondent No. 1 and Mr. P. Nayak, has accepted notice on behalf of respondent Nos. 2 and 3, no formal notice is required to be sent to the said respondents.

However, extra copies of the writ petition, requisite in numbers, be furnished to the learned departmental counsel so as to enable them to obtain instruction and file affidavit.

Petitioner to take steps for service of notice upon the respondent Nos. 4 to 6 by registered post with A/D.

Heard on the prayer of interim relief.

Having regard to the facts and circumstances of the case, it is hereby provided that the respondent authority shall not demolish any structure standing over the plot of land belonging to the writ petitioner without serving proper notice of demolition upon them.

However, the petitioner to submit reply to the notices issued by the respondent Nos. 2 and 3 within the time stipulated therein.

Pendency of this writ petition shall not be a bar for the respondent to consider the reply submitted by the petitioner and pass appropriate order(s).

If the writ petitioners remain aggrieved even thereafter, it will be open for them to make a mention before this Court seeking appropriate order.

JUDGE

GS

Comparing Assistant