

GAHC010165422024



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

**Case No. : WP(C)/4136/2024**

DIPAK RAY AND ANR  
SON OF LATE LAKSHAN CH. RAY, RESIDENT OF KAMPUR BAZAR, P.O.  
AND P.S. KAMPUR, DISTRICT- NAGAON, ASSAM, PIN- 782426

2: SHRI BHAJAN KANTI RAY  
SON OF LATE BHARAT CH. RAY  
RESIDENT OF KAMPUR BAZAR  
P.O. AND P.S. KAMPUR  
DISTRICT- NAGAON  
ASSAM  
PIN- 78242

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REPRESENTED BY ITS COMMISSIONER AND SECRETARY, REVENUE AND  
DISASTER MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI, ASSAM-  
781006

2: THE DEPUTY COMMISSIONER  
NAGAON  
OLD TRUNK ROAD  
CHRISTIANPATTY  
ASSAM- 782001

3: THE CIRCLE OFFICER  
KAMPUR REVENUE CIRCLE  
KAMPUR  
ASSAM- 782426

4: KAMPUR MUNICIPAL BOARD  
NAGAON  
REPRESENTED BY THE EXECUTIVE OFFICE

For the Petitioner(s) : Mr. K. K. Mahanta, Sr. Advocate  
: Ms. N. Begum, Advocate

For the Respondent(s) : Mr. H. Sharma, Government Advocate  
: Ms. G. Hazarika, Government Advocate

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 14.08.2024**

Issue notice making it returnable on 27.08.2024.

2. Ms. G. Hazarika, the learned Government Advocate appears on behalf of the Respondent No.1; Mr. H. Sharma, the learned Government Advocate appears on behalf of the Respondent Nos. 2 & 3 and accepts notice.
3. As the Respondent Nos. 1, 2 and 3 are duly represented by their respective learned counsels, extra copies of the writ petition be served upon them during the course of the day.
4. As regards the Respondent No.4, the Petitioners are directed to take steps by way of Registered Post with A/D as well as through usual process within 3 (three) days.
5. In addition to that, the Petitioners are further given the liberty to take steps upon the Respondent No.4 by way of dasti routed through the Registry of this Court and file an affidavit of service on or before the next date.
6. The case of the Petitioners herein is that the forefathers of the Petitioners have been doing business in an area of land admeasuring 8 Lechas and 2 Lechas since the year 1911. All these while, they have been

doing business since generation which comes under the Kampur Municipal Board. The Petitioners duly admit that the land wherein the Petitioners are carrying on the business are not their lands. Be that as it may, on 31.07.2024 and 01.08.2024, the Petitioners have been issued notices by the Circle Officer, Kampur Revenue Circle that they are in occupation of the Government roadside land and as such asking them to clear the land within 15 days of the receipt of the said notice for construction of the Gaurav Road failing which eviction would be carried out in accordance with law.

7. It is seen that the Petitioners had submitted representation on 01.08.2024. However, a perusal of the said representation prima facie appears to be contrary to the case pleaded in the writ petition inasmuch as the stand taken in the representation is that the Circle Officer of the Kampur Revenue Circle is taking steps to convert their land into Government land for the purpose of construction of the Gaurav Road and as such requested the District Commissioner to stay the said eviction notice.

8. On the other hand, it is being submitted by Mr. K. K. Mahanta, learned Senior counsel that the Respondent Authorities are not disturbing the petitioners' area where they are residing however, in the market place wherein the Petitioners carrying on their business, the Respondent Nos. 2 and 3 are trying to evict the petitioners without making any alternative arrangements. It is the case as submitted by Mr. K. K. Mahanta, learned Senior counsel that the Petitioners cannot be thrown to the streets without providing an alternative area where the Petitioners could carry on their business.

9. On the other hand, Mr. H. Sharma, the learned Government Advocate appearing on behalf of the Respondent Nos. 2 and 3 submitted that the notice had been issued giving 15 days time to the Petitioners in terms with the judgment of 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*** and it is a proceedings under Section 18(2) of the Settlement Rules. He further submitted that the materials on record would show that the Petitioners do not have any semblance of any right over the land in question and more so when the land in question is a roadside land which under no circumstances can be settled in favour of the Petitioners in terms which Rule 23 of the Settlement Rules framed under the Assam Land and Revenue Regulations, 1886. He submits that any stay granted to the eviction proceedings in a case of the present nature would derail the said infrastructure project. Mr. H. Sharma, the learned Government Advocate further submits that though the learned Senior counsel appearing on behalf the Petitioners states that the Petitioners have been doing business from the year 1911, but from the documents which have been enclosed in the writ petition shows that the Petitioners have been doing business from the year 2016.

10. This Court upon hearing the counsels and also upon perusal of the materials on record do not find that the Petitioners herein have been able to show any semblance of right or even a bona fide claim of right in respect to the land wherein the Petitioners have been carrying on the business. Mere issuance of certain alleged receipts by the Kampur Municipal Board would not in the opinion of this Court grant an immunity to the Petitioners to carry on the business on the land belonging to the

State more so a roadside land. Be that as it may, this Court also finds it relevant to observe that if the land in question wherein the eviction drive is carried out is not a roadside reserved land, then in such circumstances, one could perceive of certain limited accommodation to the petitioners.

11. Under such circumstances, this Court directs the Respondent Authorities to go ahead with the eviction as sought to be carried out but while going ahead, the Respondent Authorities shall ascertain that the land in question in respect of which the notices have been issued is a roadside reserve land.

12 This Court also cannot also be unmindful of the fact that the Petitioners who are doing business would be uprooted upon the eviction being carried out. The District Commissioner, Nagaon shall in the meantime make an assessment where the Petitioners relocated upon they being evicted so that they can carry out their business and the same be placed before this Court on the next date. This Court however makes it clear that the above observation and direction should not be construed that this Court had stayed the eviction till an alternative place is located. In addition to that, this Court further makes it clear that the above observations shall not preclude the Respondent Authorities to take a stand that the petitioners are not entitled for relocation.

13. List accordingly.

**JUDGE**