

GAHC010187502024



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

**Case No. : WP(C)/4695/2024**

SANTOSH ALI @ SHONTOSH ALI  
S/O- LATE MOFIJUDDIN, VILL.- HATIMURA, P.O.. HASDOBA, P.S.  
LAKHIPUR, DIST. GOALPARA, ASSAM, PIN- 783129.

VERSUS

THE STATE OF ASSAM AND 5 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM, REVENUE AND DISASTER MANAGEMENT, DISPUR, GHY-06.

2:THE DIRECTOR  
LAND RECORDS AND SURVEYS ETC.  
ASSAM  
RUPNAGAR  
GHY-32.

3:THE DISTRICT COMMISSIONER  
GOALPARA  
P.O.  
P.S. AND DIST. GOALPARA  
ASSAM  
PIN- 783101.

4:THE CIRCLE OFFICER  
LAKHIPUR REVENUE CIRCLE  
LAKHIPUR  
P.S. LAKHIPUR  
DIST. GOALPARA  
ASSAM  
PIN- 783129.

5:THE DIVISIONAL FOREST OFFICER

GOALPARA DIVISION  
P.O  
PS AND DIST. GOALPARA  
ASSAM  
PIN- 783101.

6:DHRUBA DUTTA  
RANGER  
LAKHIPUR FOREST RANGE OFFICE  
P.O. AND P.S. LAKHIPUR  
DIST. GOALPARA  
ASSAM  
PIN- 783129

For the Petitioner(s) : Mr. A. Hussain, Advocate  
: Mr. K. Alam, Advocate

For the Respondent(s) : Mr. P. N. Goswami, Addl. AG, Assam  
: Mr. R. Borpujari, Standing Counsel  
: Mr. N. Goswami, Government Advocate

**BEFORE**  
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 25.02.2026**

Heard Mr. A. Hussain, the learned counsel appearing on behalf of the Petitioner and Mr. R. Borpujari, the learned Standing counsel appearing on behalf of the Respondent Nos. 1 and 2. I have also heard Mr. N. Goswami, the learned Government Advocate appearing on behalf of the Respondent Nos. 3 and 4 and Mr. P. N. Goswami, the learned Additional Advocate General appearing on behalf of the Respondent No.5.

2. The present writ petition has been filed by the Petitioner

seeking compensation on account of Constitutional tort committed by the Statutory Authorities as well as also seeking directions that the Respondent Nos. 3 and 4 should allot a plot of land to the Petitioner taking into account that the Petitioner admittedly was residing over the land for the last 40 years. In that regard, the Petitioner had also submitted a representation on 08.02.2024. However the same has not been considered.

3. The record reveals that vide an order dated 11.04.1983, the father of the Petitioner was permitted to reside over a plot of land upon certain terms and conditions. The said plot of land admeasured 1 Bigha covered by Dag No.157(Ka), Village Hashdoba, Circle Lakhipur in the District of Goalpara, Assam.

4. It is further pertinent to take note of that the terms and conditions which were issued were that the Petitioner's father had to construct a dwelling house. The Petitioner's father thereupon constructed a dwelling house and after the death of the Petitioner's father, the Petitioner has been residing. It is also seen from the Chitha for the surveyed land i.e. Dag No.202 (which earlier was Dag No.157 (Ka) as submitted by the Petitioner), the name of the Petitioner was duly mentioned as being in possession. The Petitioner submitted an application seeking allotment of the land taking into account that his father as well as he have been residing for the last 40 years. The said

application seeking allotment was filed on 12.11.2021 in terms with the Assam Land Policy, 2019. An acknowledgment receipt was also issued to the Petitioner in that regard.

5. It is the case of the Petitioner that all of a sudden, the Respondent Nos. 4 and 5 along with the Respondent No.6 came to the Petitioner's premises and demolished the dwelling house on 17.07.2023. The Petitioner thereupon lodged an FIR however the said FIR was not accepted for which the Petitioner was compelled to file a complaint case before the Chief Judicial Magistrate, Goalpara which was registered and numbered as Complaint Case No.350/2023 and the same is presently pending. It is under such circumstances, the Petitioner had approached this Court.

6. Upon notice being issued, the Respondent No.5 had filed an affidavit-in-opposition. From the said affidavit-in-opposition, it is seen that the survey was conducted on the basis of certain directions passed by the learned Division Bench of this Court in PIL (Suo Moto) No.1/2022 and it was found upon the comprehensive survey of the Nalbari Reserved Forest (RF), Lakhipur Range that the Petitioner was one of the encroachers of the Reserved Forest. The survey report was submitted on 01.07.2023 which has been enclosed as Annexure-B to the said affidavit-in-opposition filed by the Respondent No.5.

7. This Court also finds it pertinent to take note of the affidavit-in-opposition filed by the Respondent No.3 through the Additional District Commissioner, Goalpara. It is surprising to take note of the contents of Paragraph No.4 of the said affidavit-in-opposition taking into account that the Petitioner was evicted on 17.07.2023 and the report of the Circle Officer, Lakhipur Revenue Circle on 08.11.2024 i.e. more than a year after the Petitioner was evicted showed that the land was a Government land and after that, joint re-verification was conducted. Paragraph No.4 of the said affidavit-in-opposition filed by the Respondent No.3 being relevant is reproduced herein under.

*“4. That with regard to the statements made in Paragraph Nos. 3 and 4 of the Writ Petition the Deponent begs to state that as per report submitted by the Circle Officer, Lakhipur Revenue Circle Vide No.GLCG.07/2024/HC/CI/791 dated 08.11.2024, the land covered by Dag No.157(Ka) of Revenue Village Hasdoba Under Lakhipur Revenue Circle, Lakhipur is recorded as Govt. Land and during joint verification along with the Forest Department, the land in question is found to be under Reserve Forest (RF). As reported by the DFO(T), Goalpara vide No.B/GLP(T)/Encroachment & eviction/4185-86 dated 05.11.2024, as per direction of the Hon’ble Gauhati High Court, Guwahati, a comprehensive survey of Nalbari Reserve Forest was conducted by the Range Officer, Lakhipur Range. During field survey of said Reserve Forest, it was found that the Petitioner was one of the encroachers in the said Reserve Forest as listed in the Encroachment survey report of Nalbari Reserve Forest*

*and compliance with the Hon'ble Gauhati High Court's order and Judgment in PIL (Suo Moto) No.1/2022 dated 05.09.2022, the eviction drive was carried out by the DFO(T), Goalpara to remove the illegal encroachers from the said Reserve Forest."*

8. It therefore appears from a reading of the affidavit-in-opposition filed by the Respondent No.3 as well as the Respondent No.5 that the survey which was carried out by the Respondent No.5 was not in consultation with the Revenue Department inasmuch as the survey report was submitted on 01.07.2023 by the Forest Department whereas as per the affidavit filed by the Respondent No.5, the joint verification was conducted after the report of the Circle Officer dated 08.11.2024.

9. It is also appalling to take note of the above quoted paragraph of the affidavit-in-opposition filed by the Respondent No.3 wherein it is mentioned that as per the report of the Circle Officer, Lakhimpur Revenue Circle, the notice was issued by the Forest Department and the eviction was carried out on 17.07.2023.

10. This Court also finds it relevant to take note of another aspect in the affidavit-in-opposition filed by the Respondent No.3 wherein it is mentioned that the Petitioner's application seeking allotment was not found eligible but there is no reason

assigned. Fairness and transparency are mandates of Article 14 of the Constitution which the State is required to observe. Merely stating that the Petitioner was not eligible that too on affidavit would not suffice when a person as per the Assam Land Policy, 2019 being in occupation of Government waste land that too upon permission being granted have a right to seek allotment.

11. Under such circumstances, this Court therefore fixes this matter again on 12.03.2026.

12. The Respondent No.3 shall produce the joint verification report carried out by the Circle Officer, Lakhipur Revenue Circle in association with the Divisional Forest Officer, Goalpara. In addition to that, reasons be placed before this Court by way of an affidavit as to why the Petitioner's application seeking allotment was rejected and when it was rejected.

13. In addition to that, the Respondent Nos. 3, 4 and 5 are also directed to place it on affidavit as to whether notices were issued prior to eviction of the Petitioner as per the settled principles of law laid down by the Supreme Court.

14. Mr. N. Goswami, the learned Government Advocate submits that a copy of the order be furnished to him.

15. Accordingly, the Registry is directed to provide a copy of this

order to Mr. N. Goswami, the learned Government Advocate and Mr. P. N. Goswami, the learned Additional Advocate General for due compliance.

**JUDGE**

**Comparing Assistant**