

GAHC010193822024



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

Case No. : WP(C)/4797/2024

SHAJAHAN ALI AND 52 ORS
S/O- NAGOR ALI

2: BADSHA SHEIKH

SON OF LATE SHAHABUDDIN

3: KASEM ALI

AGE 54 YEARS
SON OF LATE MOKRAM ALI

4: SAMIR JALAL
SON OF SAYED ALI

5: ROFIQUL ISLAM

AGE 40 YEARS
SON OF ABDUR RAHIM

6: SHAHJAHAN ALI

AGE 43 YEARS
SON OF JALAL UDDIN SHEIKH

7: SABUR UDDIN

AGE 69 YEARS
SON OF LATE DAROG ALI

8: KUTUB ALI

AGE 24 YEARS
SON OF MANIR UDDIN

9: ABBAS ALI @ ABABACH ALI

SON OF BIDU SHEIKH

10: MOINUDDIN MANDAL
SON OF LATE AFAN MANDAL

11: SHAHINUR ISLAM

AGE -36 YEARS
SON OF JALAL SHEIKH

12: BASER ALI

SON OF MOKTAL HOSEN

13: RUHUL AMIN

SON OF JALAL UDDIN SHEIKH

14: SHAIZ UDDIN

SON OF SOBUR UDDIN

15: NUR ISLAM

SON OF KASHEM ALI

16: NUR UDDIN SK

SON OF BAHAR UDDIN

17: HAJRAT ALI
SON OF KALAM HOSEN

18: FOZOR ALI

SON OF BILAT SHEIKH

19: FOYEZ UDDIN
SON OF LATE KAJIMUDDIN

20: AYNAL HOQUE

SON OF SEBAT ALI

21: TAHAR ALI

SON OF LATE AMCHER ALI

22: KODOM ALI
SON OF PASHAN ALI SK

23: ABED ALI

SON OF SAKIM ALI

24: JABED ALI

SON OF SAKIM ALI

25: ABDUL HAI MANDAL

AGE-68 YRS
SON OF LATE SOBAHAN ALI MONDAL

26: RAMJAN ALI

AGE - 54 YEARS
SON OF LATE SONAULLAH SHEIKH

27: SAMSUL HOQUE

AGE - 47 YRS
SON OF LATE ABDUR RAHMAN

28: BILAT ALI

AGE -62 YEARS
SON OF LATE NUR UDDIN

29: SORMAN ALI

AGE - 55 YEARS
SON OF LATE MOHAMMAD ALI

30: SAHADOT ALI

AGE -38 YEARS
SON OF LATE MOHAMMAD ALI

31: MAJIBAR RAHMAN

AGE - 54 YRS
SON OF LATE KASHEM ALI

32: MOHIM ALI

AGE - 61 YEARS
SON OF LATE AMSER ALI SK

33: ANOWAR HUSSAIN

AGE -40 YRS
SON OF SEBAT ALI

34: MONIR UDDIN AHMED

AGE - 45 YEARS
SON OF LATE ABDUL WAHED

35: MULUK KHATUN

AGE - 50 YEARS
WIFE OF LATE MANNAN ALI

36: BANJU ALI SK

AGE - 58 YEARS
SON OF LATE MOKSED ALI

37: FAJAR ALI

AGE 55 YEARS
SON OF JALAL UDDIN

38: GOLAP UDDIN

AGE - 40 YEARS
SON OF JAYNAL ABDIN

39: JILLUR RAHMAN

AGE - 58 YEARS
SON OF LATE IDRIS ALI

40: JAHURUL ISLAM

AGE - 47 YEARS
SON OF JILLUR RAHMAN

41: MALEKA KHATUN

AGE-54 YEARS
DAUGHTER OF KARIM MOLLAH

42: CHAYED ALI

AGE- 46 YEARS
SON OF ABDUL KUDDUS

43: HALIMAN NESSA

AGE- 54 YEARS
WIFE OF SAYED ALI

44: ABDUL SALAM

AGE - 64 YEARS
SON OF SIDDIQUE ALI

45: NUR BAHAR
SON OF LATE ABDUS SATTAR

46: SURUT JAMAL

AGE - 35 YEARS
SON OF RUHUL AMIN

47: TAJA SHEIKH

AGE -51 YEARS
SON OF LATE MONSER ALI

48: NOUSHAD ALI

AGE - 35 YEARS
SON OF LATE SEBAT ALI

49: AFSAR ALI

SON OF LATE SAHAB UDDIN

50: NOSER ALI

AGE - 50 YEARS
SON OF LATE PASHAN ALI SHEIKH

51: ROFIQUL ISLAM

AGE -40 YEARS

SON OF ABDUR ROHIM

52: AFSAR ALI

AGE - 60 YEARS
SON OF LATE HASEN ALI

53: SUFIA KHATUN

W/O- LATE MOFIJ UDDI

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
FOREST DEPARTMENT, DISPUR GUWAHATI 781006

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE
ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI
KAMRUP (M) ASSAM
PIN-781037

3:THE DIVISIONAL FOREST OFFICER
GOALPARA
GEETANAGAR
GOALPARA
ASSAM
PIN-783121

4:THE DISTRICT COMMISSIONER
GOALPARA ASSAM
PIN-783121

5:THE CIRCLE OFFICER
LAKHIPUR REVENUE CIRCLE
P.O AND P.S- LAKHIPUR

DIST-GOALPARA ASSAM
PIN-783129

6:THE FOREST RANGE OFFICER
LAKHIPUR RANGE OFFICE

P.O AND P.S- LAKHIPUR

DIST-GOALPARA ASSAM
PIN-78312

Advocate for the petitioner(s): Mr. S Borthakur
Mr. AFNU Mollah

Advocate for the respondent(s): Mr. D Gogoi
Standing Counsel
Forest Department, Govt. of Assam
Mr. S Baruah
Junior Government Advocate, Assam

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

18.09.2024

Heard Mr. S Borthakur, the learned counsel appearing on behalf of the petitioners. Mr. D Gogoi, learned Standing Counsel appears on behalf of respondent Nos.1, 2, 3 and 6 and Mr. S Baruah, the learned Junior Government Advocate appears on behalf of respondent Nos. 4 and 5.

2. Issue notice making it returnable on 02.12.2024.
3. Taking into account that all the respondents are duly represented, extra copies of the writ petition be served upon them during the course of the day.
4. The petitioners herein claim to be the residents of village Bandarmatha of

Hashdoba Gaon Panchayat under Lakhipur Revenue Circle of Goalpara district. It is the case of the petitioner that they have been residing over the said lands and have also been paying the *tauzi-bahiri* till 2016. It is, therefore, the specific case of the petitioners that they are in possession of Government lands and not forest lands or reserved forest lands. However, a notice was pasted in the village where the petitioners reside on 08.09.2024 issued by the respondent No.3 informing all concerned that they were living illegally in village Bandarmatha under forest reserved lands and as such, they would be evicted in view of the order(s) being passed in PIL No.1/2022 and more particularly, in view of the order dated 05.09.2022. The petitioners herein further stated that pursuant thereto, the respondents in the Forest Department made a survey in respect to various houses, wherein in some houses they had marked it with the initial 'A F' (meaning Assam Forest) and in some houses they had put in as 'K L' (meaning Khas land i.e. the Government land).

5. The learned counsel appearing on behalf of the petitioners submits that there is no specific demarcation in so far as on what basis the survey had been conducted. He, therefore, submitted that this is a fit case that unless a proper survey is not conducted, this Court should stay any eviction to be carried out by the respondent No.3.

6. On the other hand, Mr. D Gogoi, the learned counsel for the Forest Department submitted that pursuant to the order dated 05.09.2022 in PIL No.1/2022, there were various order(s) being passed by the Division Bench of this Court to the effect that there should be eviction carried out in the forest land. Pursuant thereto, a *Suo Moto* Contempt proceedings was initiated by the Division Bench of this Court, which is registered as Cont.Cas(C)(*Suo Moto*)No.3/2023, wherein the Division Bench of this Court had been passing

order(s) from time to time as to what steps had been taken for the purpose of complying with the directions dated 05.09.2022 passed in PIL No.1/2022. The learned Standing Counsel for the Forest Department, Government of Assam further placed emphasis on the order dated 29.05.2024 in Cont.Cas(C)(Suo Moto) No.3/2023 and submitted that in another writ petition being WP(C)No.314/2024, there was a stay in respect to similar set of facts. The learned counsel submitted that the Division Bench in the said order had modified that order which was passed by the Coordinate Bench of this Court thereby permitting the Forest Authorities to initiate eviction drive in respect to the encroachment in the reserved forest areas.

7. I have heard the learned counsels appearing on behalf of the parties. Upon hearing the learned counsels and taking into account the order passed by the Division Bench of this Court dated 29.05.2024 in Cont.Cas(C) (Suo Moto) No.3/2023, this Court is of the opinion that there is a requirement to carry out the eviction in respect to the reserved forest lands.

8. Mr. D Gogoi, the learned counsel for the Forest Department submitted that the land, in-question, falls within the Bandarmatha Reserved Forest. However, in respect to Government Khas Land, the Forest Authorities have no authority to carry out any eviction, as it would be solely within the jurisdiction of the District Administration.

9. Therefore, this Court observes and directs that the respondent authorities in the Forest Department would be free to initiate eviction drive in respect of encroachment in the Bandarmatha Reserved Forest only. However, in doing so, this Court further observes and directs that the respondent No.3 shall do so after duly consulting with the respondent Nos.4 and 5.

10. List this matter again on 02.12.2024. On the returnable date, the respondent Nos.3 and 4 shall bring on record their stand by filing their respective affidavits.

JUDGE

Comparing Assistant