

GAHC010197962024



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

Case No. : WP(C)/5236/2024

MD. ABDUL KALAM AND 25 ORS
SON OF NOOR MAHAMMAD,
BY RELIGION- ISLAM,
BY OCCUPATION- BUSINESS,
RESIDENT OF BHOJKHOWA CHAPARI,
MOUZA- MAHABHAIRAB,
P.O.- BHOJKHOWA CHAPARI,
DISTRICT- SONITPUR, ASSAM.

2: MD. ISHAHAQUE ALI
SON OF LATE NIYAMAT ALI

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

3: MUSST. JAHERA KHATUN
WIFE OF MD. SAMSUL HAQUE

BY RELIGION- ISLAM

BY OCCUPATION- HOUSEWIFE

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

4: MUSST. HAMIDA KHATUN
WIFE OF LATE HASEN ALI

BY RELIGION- ISLAM

BY OCCUPATION- HOUSEWIFE

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

5: MUSST. HONUFA KHATUN
WIFE OF LATE MAJET ALI

BY RELIGION- ISLAM

BY OCCUPATION- HOUSEWIFE

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

6: MD. SURAJ ALI
SON OF LATE MIAY HUSSAIN
BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

7: MD. ABDUL MATLEB
SON OF LATE ALIMUDDIN

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF VILLAGE- BOTOMARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

8: MD. SULTAN AHMED
SON OF LATE GODHA MUNSHI

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

9: MD. RIAJUDDIN
SON OF LATE ABDULLAH

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF CHATAI CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

10: MUSST. FATEMA KHATUN
WIFE OF SAMSUL HAQUE

BY RELIGION- ISLAM

BY OCCUPATION- HOUSEWIFE

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

11: RAHIMA KHATUN
DAUGHTER OF LATE ABDUL KHALEK

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

12: MUSSTT. AISHA SIDDIKA
W/O- LATE AZGAR ALI

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

13: MD. MAZIBUR RAHMAN
SON OF LATE MAHAMMED ALI

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

14: MD. JARIP ALI
SON OF LATE HASEN ALI

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

15: MD. NURUL ISLAM
SON OF LATE ASAN ALI

BY RELIGION- ISLAM

BY OCCUPATION- CULTIVATION

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

16: MD. BILLAL HUSSAIN
SON OF LATE MOSLEMUDDIN

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

17: MUSTT. HAZARA KHATOON
W/O- HABIBUR RAHMAN

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

18: MD. HABIBUR RAHMAN
SON OF MD. NUR ISLAM

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

19: ABIDUR RAHMAN
S/O- MOKBUL HOSSAIN

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

20: SAFIKUL RAHMAN
S/O- LATE NAZIMMUDIN

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

21: AKTAR HUSSAIN
S/O LATE ASAR UDDIN

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

22: ANUWARA BEGUM
W/O- ABDUL KASEM

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

23: YASIN AKRAM
S/O- LATE ABDUL KASEM

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

24: SABIKUL RAHMAN
S/O- MAKBUL HUSSAIN

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

25: JEHERUL HAQUE
S/O- SAMSUL HAQUE

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM.

26: NUR MAHMMAD MUSTAFA
S/O- LATE UNISH ALI

BY RELIGION- ISLAM

BY OCCUPATION- BUSINESS

RESIDENT OF BHOJKHOWA CHAPARI

MOUZA- MAHABHAIRAB

P.O.- BHOJKHOWA CHAPARI

DISTRICT- SONITPUR
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT,
F BLOCK, 1ST FLOOR, ASSAM SECRETARIAT (CIVIL),
DISPUR, GUWAHATI- 06.

2:THE DISTRICT COMMISSIONER
SONITPUR

TEZPUR
ASSAM
PIN- 784001.

3:ADDL. DISTRICT COMMISSIONER
SONITPUR
TEZPUR
ASSAM
PIN- 784001.

4:THE CIRCLE OFFICER
TEZPUR REVENUE CIRCLE
SONITPUR
ASSAM
PIN- 784001.

5:HARMUJ ALI
GAON BURHA
VILL- BHOJKHOWA CHAPARI

TEZPUR REVENUE CIRCLE

MOUZA- MAHABHAIRAB

P.O.- TEZPUR (BHOJKHOWA CHAPARI).

6:NOOR JAMAL AHMED
S/O- ABDUL HAMID

VILLAGE- BHOJKHOWA CHAPARI

P.O.- BHOJKHOWA CHAPARI

DIST.- SONITPUR
ASSAM
PIN- 784027

For the Petitioner(s) : Mr. S. Sahu, Advocate

For the Respondent(s) : Ms. P. R. Mahanta, SC, Revenue
: Ms. M. Barman, Jr. Government Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

Date : 04.10.2024

Issue notice making it returnable on 11.11.2024.

2. Ms. P. R. Mahanta, the learned Standing counsel appears on behalf of the Respondent No.1 and Ms. M. Barman, the learned Junior Government Advocate appears on behalf of the Respondent Nos. 2, 3 & 4 and accepts notice.
3. As the Respondent Nos. 1 to 4 are duly represented, extra copies of the writ petition be served upon them during the course of the day.
4. As regards the Respondent Nos. 5 and 6, the Petitioners are directed to take steps by way of Registered Post with A/D as well as through usual process during the course of the day.
5. In addition to that, the Petitioners are given the liberty to take steps upon the Respondent Nos. 5 and 6 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 Petitioners were carrying on their business in a plot of land covered by Dag No.380 situated at village Bhojkhowa, Mouza Mohabhairab in the District of Sonipur, Assam. It is the case of the Petitioners that the Petitioners were issued notice under Rule 18 of the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886 by the District Commissioner, Sonitpur thereby to summarily evict the Petitioners from the Government

land. Thereupon, the Petitioners filed a suit being Title Suit No.70/2015 before the Court of the Munsiff No.1, Tezpur seeking declaration and certain consequential reliefs. In the said suit, an injunction application was filed being Misc. (J) Case No.139/2015 wherein an injunction order was passed not to evict the Petitioners.

7. Be that as it may, while the said suit was pending and the injunction was operating, the Petitioners herein were evicted on 12.08.2024 by the Office of the District Commissioner, Sonitpur. On enquiry being made, the Petitioners could come to learn that the Respondent No.6 had filed a writ petition before this Court which was registered and numbered as WP(C) No.2741/2022 wherein this Court vide an order dated 13.06.2022 directed the District Commissioner to pass a Speaking Order on the representation so submitted by the Petitioners therein. The Petitioners could further come to learn from the enquiries made in the Office of the District Commissioner, Sonitpur that it is on account of the order being passed on 13.06.2022 in WP(C) No.2741/2022, the Petitioners were evicted.

8. The learned counsel for the Petitioners submits that a perusal of the order dated 13.06.2022 passed in WP(C) No.2741/2022 would not show in any manner that there was any direction passed to evict the Petitioners herein. Under such circumstances, during the pendency of the injunction order and when there was no specific direction being passed by this Court, the action on the part of the District Commissioner to evict the Petitioners was an illegal and arbitrary action and as such the Petitioners have approached this Court.

9. The Respondents shall bring on record their stand by way of filing

an affidavit on or before the next date.

10. List accordingly.

JUDGE

Comparing Assistant