

GAHC010201732025



2026:GAU-AS:2953

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

Case No. : WP(C)/5196/2025

SANDUKPARA NITYABAZAR JAME MASZID AND 2 ORS
REPRESENTED BY ITS SECRETARY MAZIBAR RAHMAN, VILL.- SOUTH
BOITAMARI, NITYA BAZAR, P.O. KAYETHPARA, P.S. ABHAYAPURI, DIST.
BONGAIGAON, ASSAM, PIN- 783389.

2: MAZIBAR RAHMAN
S/O- DERAJUDDIN AHMED
SECRETARY OF SANDUKPARA NITYABAZAR JAME MASZID
VILL.- SOUTH BOITAMARI
NITYA BAZAR
P.O. KAYETHPARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN- 783389.

3: ASHIBULLAH KHANDAKAR
S/O- LATE ROHOM ALI KHANDAKAR
PRESIDENT OF SANDUKPARA NITYABAZAR JAME MASZID
VILL.- PACHAGAON PT-I
P.O. DHANTOLA
DIST. BONGAIGAON
ASSAM
PIN- 783372

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF LAND, REVENUE AND DISASTER MANAGEMENT,
ASSAM CIVIL SECRETARIAT, DISPUR, GUWAHATI-781006.

2: THE DISTRICT COMMISSIONER
BONGAIGAON

BONGAIGAON DISTRICT
ASSAM
PIN- 783380.

3:THE CIRCLE OFFICER
BOITAMARI REVENUE CIRCLE
BOITAMARI
DIST. BONGAIGAON
ASSAM
PIN- 783384.

4:THE SPECIAL CHIEF SECRETARY TO THE GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-06
ASSAM

5:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE AND WILD LIFE
ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI-37.

6:THE DIVISIONAL FOREST OFFICER
BONGAIGAON FOREST DIVISION
DIST. BONGAIGAON
ASSA

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

Advocates for the petitioner(s) :Mr. B Purkayastha

Advocates for the respondent(s) :Mr. M Kalita, Standing Counsel
Forest Deptt.

Ms. N Bordoloi, Standing Counsel
Revenue & Disaster Management

Deptt.

Mr. SS Roy, Govt. Advocate Assam

Date on which Judgment is reserved: NA

Date of Pronouncement of Judgment : **25.02.2026**

Whether the Pronouncement is of the : NA

Operative Part of the Judgment

Whether the Full Judgment has been : Yes

Pronounced

JUDGMENT & ORDER(ORAL)

Heard Mr. B Purkayastha, the learned counsel appearing on behalf of the petitioners and Ms. N Bordoloi, the learned Standing Counsel, Revenue and Disaster Management Department, who appears on behalf of the respondent No.1; Mr. SS Roy, the learned Government Advocate appearing on behalf of the Respondent Nos. 2 and 3. I have also heard Mr. M Kalita, the learned Standing Counsel, Forest Department, who appears on behalf of the respondent Nos.4, 5 and 6.

2. The instant writ petition has been filed by the petitioners herein complaining about the impugned notice dated 22.08.2025 issued by the respondent No.6 which has been enclosed to the writ petition as Anenxure-5.

3. The petitioner No.1 is Sandukpara Nityabazar Jame Maszid (hereinafter to

be referred to as the '*Mosque*') which is being represented by the petitioner No.2 in the present proceedings. It is the case of the petitioners that the aforesaid Mosque was established 55 years ago by constituting a Management Committee in the year 1980 wherein the people of the locality offer their prayers regularly.

4. The Management Committee of the Mosque in question approached the Revenue authorities with a request for allotment of patta of the land where the said Mosque is situated. On receipt of the said request the then Sub-Divisional Officer, North Salmara vide letter dated 01.01.1996 accorded approval for transfer of possessory rights to the Management Committee and accordingly the then Assistant Land Settlement Officer, Boitamari Revenue Circle, Abhayapuri vide Memo No.B.S.R.P70/88-91(K) dated 05.04.1996 transferred the possessory rights over an area of 4 kathas of land covered by Dag No.44(Old) and 7(New). However as per Chitha Book Record the said land is shown against Dag No.81.

5. Thereafter, the Circle Officer Boitamari Revenue Circle issued a Notice dated 16.09.2010 to the petitioner No.1 to submit the valid documents with regard to the possession over the aforesaid plot of land on or before 03.10.2010. Thereafter the Management Committee approached the Circle Officer Boitamari Revenue Circle and submitted the allotment order dated 05.04.1996 issued by the Assistant Settlement Officer, Boitamari and upon verification of the records, the proceedings dated 16.09.2010 was dropped against the petitioners.

6. It is the further case of the petitioners that though the petitioners had been allotted the possession over the land in question in the year 1996, the Management Committee of the Mosque applied for allotment of patta under the Basundhara Scheme of the Government of Assam vide application dated 30.12.2024. However the said application is still pending before the Revenue authorities.

7. The grievance of the petitioners herein is that all of a sudden the impugned notice dated 22.08.2025 was issued to the petitioners whereby the petitioners were asked to vacate the premises over which the Mosque is situated within a period of 15 days which was received by the petitioner No.2 only on 27.08.2025.

8. The petitioners on receipt of the impugned notice dated 22.08.2025 had duly submitted a joint representation before the DFO, Bongaigaon stating categorically that the land where the Mosque in question is situated is under Dag No.81 of the Pachagaon Pahar which does not belong to Forest land and accordingly requested for protection of the Mosque from being evicted. However, no action has been taken on the representation so submitted and apprehending that on the basis of the said notice dated 22.08.2025, the petitioners would be evicted, the petitioners have approached this Court by filing the instant writ petition.

9. Mr. B Purkayastha, the learned counsel appearing on behalf of the petitioners submitted that the respondent No.6 by way of the impugned notice dated 22.08.2025 which is enclosed as Annexure-5 to the writ petition had directed the Petitioners to vacate the land over which the Mosque is situated

within 15 days without carrying out any adjudication as regards the rights of the Petitioners *qua* the land under their possession. He, therefore, submitted that this is a fit case where the impugned notice is required to be set aside and quashed.

10. This Court has heard the learned counsels appearing on behalf of the parties and has given anxious consideration to their respective submissions.

11. This Court now finds it also relevant to take note of the impugned notice dated 22.08.2025 which has been issued to the Petitioners which is enclosed as Annexure-5 to the writ petition. The same is reproduced herein under:

"Govt. of Assam

Office Of The Forest Divisional Authority Officer

Aie Valley Forest Division, Bongaigaon

Letter No.B/AVD/Encroachment/2025/4362-72 dated 22 August 2025

To,

Masjid (Mosque)

Vill- Nitya Bazar

District- Bongaigaon(Assam)

Subject: Notice regarding illegal occupation of Rakhalthakur Reserved Forest.

You are hereby informed that you have illegally entered the Rakhalthakur Reserved Forest Area under Abhayapuri Regional Forest Office, destroyed the forest area and also destroying the forest resources by constructing houses within the forest area.

By this action you are in complete violation of Sections 24 and 25 of the Assam Forest Regulation, 1891 and Amendment Act 1995. You have committed an offence under law by clearing reserved forests without taking permission.

Section 72 of the Assam Forest Act, 1891 and its amended Act, 1995 empowers the Forest Department of the Government of Assam to protect government forest land and evict the encroachers.

Therefore, you are hereby directed to vacate the forest land with all your belongings within 15(fifteen) days after receipt of this notice.

If the forest area is not vacated within the stipulated time, eviction action will be taken in the Interest of Forest Conservation and development as per the Assam Forest Act. The Forest Department will not be responsible for any damage may suffer during this eviction.

Sd/-

Forest Divisional Authority

Aie Valley Forest Division

Bongaigaon"

12. Mr. M Kalita, the learned Standing counsel appearing on behalf of the Forest Department submitted that the impugned notice was issued in pursuance to the directions passed by the learned Division Bench of this Court in PIL (Suo Moto) 1/2022, whereby the learned Division Bench is monitoring the eviction process in Reserved Forest Lands. The learned Standing Counsel, however, submitted that in the meantime, certain directions have been passed by the Supreme Court in the case of ***Abdul Khalek and Others Vs. The State of Assam and Others*** reported in *2026 SCC OnLine SC 184*. The learned Standing Counsel further submitted that in view of the said observations and directions passed by the Supreme Court, the Forest Department now would take steps in accordance with the said directions passed therein.

13. This Court enquired with Mr. B Purkayastha, the learned counsel appearing on behalf of the Petitioners as to whether the land in question wherein the Mosque is situated falls within the reserved

forest. The learned counsel for the Petitioners submitted that the land under their occupation do not fall within the reserved forest land. Rather the land was allotted vide the allotment order dated 05.04.1996 by the then Assistant Settlement Officer, Boitamari.

14. This Court has duly perused the judgment of the Supreme Court in the case of ***Abdul Khalek and Others*** (supra). A perusal of the said judgment reveals that while those appeals were pending before the Supreme Court, an additional affidavit was filed on 18.01.2026 by the State of Assam, the contents of which were reproduced in the said judgment. The Supreme Court at paragraph No.12 of the said judgment observed as regards the policy decision of the State of Assam to remove unauthorized occupation from the reserve forest. In addition to that, the Supreme Court also observed at Paragraph No.13 that on behalf of the State of Assam, the learned Solicitor General has assured that the mechanism evolved by the State shall be complied with objectively and with fairness while taking action for removal of unauthorized occupation in the reserved forest.

15. Taking into account the above, this Court finds it relevant to reproduce paragraph Nos.11, 12 and 13 of the said judgment in the case of ***Abdul Khalek and Others*** (supra) as hereinafter:

"11. We had heard learned senior counsel for the appellants/writ petitioners as well as

learned Solicitor General on 16.01.2026, and had expressed our concern to maintain the rule of law while ensuring protection of environment. Thereupon learned Solicitor General sought time to seek instructions and has filed an additional affidavit on 18.01.2026. Paras 3 to 9 of the said additional affidavit read as under:-

"3 .That this is the Constitutional obligation of the State Government, more particularly in light of the fact that as per the statistics given by the Ministry of Environment, Forest and Climate Change, Government of India. As per the data 3,62,082.62 hectares is under encroachment, in other words, a total of 19.92% of forest area is under unauthorised illegal encroachment. It is Constitutionally imperative that this unauthorized and illegal occupation as well as continuing illegal and unauthorised non forest activities are immediately removed.

3.1 That the first step for removal is to issue a notice on the alleged unauthorised occupant to enable him to show the evidence of him being in authorised occupation of the forest land.

3.2 That the recipient of the notice comes before a Committee of forest officials as well as revenue officials and produces the evidence, if any, available with him which can according to the notice, entitle him to stay in the Reserved Forest areas.

4.That the actions are taken for removal of encroachment areas only, if it is found that there is an illegal and unauthorised encroachment in the Reserved Forest area. If the land of the noticee is found to be within revenue limits, outside the notified forest area, the details are sent to the Revenue Department and the present drive which is confined only to evicting the Reserved Forest area has nothing to do with what the Revenue Department may or may not do thereafter.

5.That if the notice is found to be in unauthorized occupation of a Reserved Forest area, after scrutinising the documents placed by him, a

Speaking Order is passed and served upon him giving him 15 days notice to vacate the unauthorised occupation. It is only thereafter that the actions are taken to remove the unauthorised occupants.

6.That so far as the controversy concerning existence of some Gaon Panchayat is concerned, it is submitted that there can be a Gaon Panchayat in a forest area. This is provided for in Section 5 in Assam Panchayat Act, 1994.

“5. Establishment of Gaon Panchayat – (1) The State Government may, by notification, declare any local area comprising a revenue village or a group of revenue village or a Forest villager or Tea Garden area or hamlets forming part of revenue village or Forest village or Tea Garden area or other such administrative unit or part thereof to be a Gaon Panchayat with population of its territory not less than six thousand and more than ten thousand;....”

7. That the concept of a Forest Village is a unique concept in Assam. A person entitled to stay in forest village finds his name mentioned in the statutory register called 'Jamabandi Register' maintained by the Forest Department for the forest village and the person holds a document for the land under possession. Additionally, the title holders under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 are also legally authorised to occupy the forest land and are not liable for eviction. The rights mentioned above are inheritable but not alienable or transferable.

8. That individual whose name is mentioned in this register or hold rights under Forest Rights Act, 2006 are not unauthorised occupants. However, there are several unauthorised inhabitants who have encroached upon lands outside the Gaon Panchayat limits and in some cases inside the Gaon Panchayat limits which fall within the boundaries of Reserved Forests.

9. That it may be pointed out that a right to reside in Reserved Forest areas falling within a Gaon Panchayat is inheritable but non-transferable. There would be a separate set of documentary evidence showing authorised occupation within Reserved Forest areas which are falling under a Gaon Panchayat. Any unauthorised occupant residing inside Reserved Forest areas albeit falling under a Gaon Panchayat is liable to be evicted following the same procedure as pointed out above.”

12. Thus, from perusal of aforesaid additional affidavit filed on behalf of the respondents, the following policy decision to remove unauthorised occupation from the reserved forest has been taken:

(i) The respondents shall constitute a committee comprising forest officials and the revenue officials.

(ii) The said committee shall issue notice to the alleged unauthorised occupants and shall give them an opportunity to adduce evidence to show that they have the right to occupy the

land which is in their possession.

(iii) The action for removal of encroachment shall be taken, only if it is found that there is an encroachment in the reserved forest area.

(iv) In case the noticee is found to be within the revenue limits, outside the notified forest area, the details of the noticee shall be sent to the revenue department. In such cases, revenue department shall decide the future course of action.

(v) The action is being taken by the State to remove encroachment from the reserved forest areas and has nothing to do in respect of the matters which may be referred to the revenue department.

(vi) If an unauthorised occupation is found in a reserved forest area, after scrutiny of the documents, a speaking order shall be passed and shall be served on the concerned person giving him 15 days notice to vacate the unauthorized occupation and only after expiry of the period of notice, the action shall be taken to remove the unauthorised occupants.

(vii) Occupation of a Gaon Panchayat in a forest is permissible if there is a sufficient proof as per the Jamabandi Register maintained by the Forest Department or as provided under the Forest Rights Act.

13. In our opinion, the course of action to be adopted by the State Government while removing the encroachment from the reserved forest contains sufficient procedural safeguards. The process sought to be adopted by the State Government for removal of encroachment conforms to the principles of fairness, reasonableness and due process. Learned Solicitor General has assured us that the mechanism evolved by the State shall be complied with objectively and with fairness while taking action for removal of unauthorised occupation in the reserved forests. The parties are directed to maintain status quo in respect of land in occupation of the appellants/writ petitioners till Speaking Order is passed and till expiry of notice period of 15 days. All contentions are kept open to be agitated before the committee. It is clarified that this Court has not expressed any opinion on merits of the claim of the parties, as the same has to be examined by the committee."

16. In view of the observations made by the Supreme Court at Paragraph Nos.12 and 13, it is the opinion of this Court that the instant writ petition can be disposed of in the similar manner thereby directing the Respondent Authorities to carry out the required procedure and steps in terms with the directions passed by the Supreme Court at Paragraph Nos.12 and 13 in the case of ***Abdul Khalek and Others*** (supra) as quoted hereinabove.

17. Accordingly, the instant writ petition, therefore, stands disposed of with directions upon the Respondent Authorities more particularly, the Forest Department, Revenue Department, as well as the District Administration, who are parties to the instant proceedings to comply as per the directions passed by the Supreme Court at Paragraph Nos. 12 and 13 in the case of ***Abdul Khalek and Others*** (supra).

18. Mr. B Purkayastha, the learned counsel appearing on behalf of the Petitioners submitted that some form of interim directions be passed pending the directions made hereinabove being complied with.

19. At Paragraph No.13 of the judgment of the Supreme Court in the case of ***Abdul Khalek and Others*** (supra), the Supreme Court has categorically directed that the parties were to maintain status quo in respect of land in occupation till Speaking Orders are passed. The Petitioners, therefore, are also entitled to similar directions to the extent that the parties herein shall maintain status quo in respect to the land in occupation of the Petitioners till the directions in terms with Paragraph Nos.12 and 13 of the judgment passed by

the Supreme Court in the case of ***Abdul Khalek and Others*** (supra) are not complied with.

20. This Court has not decided on the merits of the inter-se dispute while passing the instant judgment which shall be decided by the Committee to be constituted as per the judgment of the Supreme Court.

21. Interim order passed earlier stands vacated.

22. With the above, the instant writ petition stands disposed of.

JUDGE

Shivani Gautam Digitally signed by Shivani
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Comparing Assistant