

GAHC010229282023



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

Case No. : WP(C)/6133/2023

VIKASH AGARWAL
R/O FLAT NO. C-1, DURGA RESIDENCY, BACK SIDE OF MLA HOSTEL, P.S.-
DISPUR, GUWAHATI-781005

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE AND DISASTER MANAGEMENT, SECRETARIAT,
DISPUR, GUWAHATI, PIN-781006

2:THE ADDITIONAL DEPUTY COMMISSIONER AND CEO
DISTRICT DISASTER MANAGEMENT AUTHORITY
KAMRUP (M)
GUWAHATI-781001

3:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
DISPUR
PIN-781028

4:THE DIRECTOR OF SOIL CONSERVATION
R.G. BARUAH ROAD
GUWAHATI-781005

5:THE DIVISIONAL FOREST OFFICER
KAMRUP EAST DIVISION
BASISTHA
GUWAHATI-781039

6:THE CHAIRMAN
GUWAHATI MUNICIPAL DEVELOPMENT CORPORATION

DIST-KAMRUP (M)

7:THE RANGE OFFICER
GUWAHATI S.C. RANGE
SOUTH SARANIA
GHY-07

8:THE OFFICER-IN-CHARGE
JORABAT OUT POST
JORABAT
GUWAHATI

9:BADAN CHANDRA BORA
S/O RABIRAM BORA
R/O 8TH MILE
AMERIGOG
P.O.-KHANAPARA
P.S.-BASISTHA (OUT POST JORABAT)
DIST- KAMRUP (M)
PIN-781023
ASSA

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : SC, REVENUE

Linked Case : I.A.(Civil)/1777/2022

BADAN CHANDRA BORA
S/O. RABIRAM BORA
R/O. 8TH MILE
AMERIGOG
P.S. BASISTHA (OUT POST JORAHAT) P.O. KHANAPARA
DIST. KAMRUP(M)
ASSAM
PIN-781023.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT

ASSAM CIVIL SECRETARIAT
DISPUR
GUWAHATI
PIN-781006.

2:THE ADDL. DEPUTY COMMISSIONER AND CEO

DISTRICT DISASTER MANAGEMENT AUTHORITY
KAMRUP (M)
GUWAHATI-781001.
3:CIRCLE OFFICER

DISPUR REVENUE CIRCLE
DISPUR
PIN-781028.
4:DIRECTOR

SOIL CONSERVATION RG BARUAH ROAD
GUWAHATI-781005.
5:DIVISIONAL FOREST OFFICER

KAMRUP EAST DIVISION
BASISTHA
GUWAHATI-781039.
6:OFFICER IN CHARGE

JORBAT OUT POST
JORABAT
GUWAHATI.
7:BIKASH AGARWAL
R/O. FLAT NO. C1
DURGA RESIDENCY
BACK SIDE OF MLA HOSTEL
DISPUR-781005.

Advocate for : MR K K MAHANTA (Sr. Advocate)
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS.

Linked Case : WP(C)/118/2022

BADAN CHANDRA BORA
S/O. RABIRAM BORA
R/O. 8TH MILE
AMERIGOG
P.S. BASISTHA (OUT POST JORAHAT) P.O. KHANAPARA

DIST. KAMRUP(M)
ASSAM
PIN-781023.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT
ASSAM CIVIL SECRETARIAT
DISPUR
GUWAHATI
PIN-781006.

2:THE ADDL. DEPUTY COMMISSIONER AND CEO

DISTRICT DISASTER MANAGEMENT AUTHORITY
KAMRUP (M)
GUWAHATI-781001.
3:CIRCLE OFFICER

DISPUR REVENUE CIRCLE
DISPUR
PIN-781028.
4:DIRECTOR

SOIL CONSERVATION RG BARUAH ROAD
GUWAHATI-781005.
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BASISTHA
GUWAHATI-781039.
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JORBAT OUT POST
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GUWAHATI.
7:BIKASH AGARWAL
R/O. FLAT NO. C1
DURGA RESIDENCY
BACK SIDE OF MLA HOSTEL
DISPUR-781005.

Advocate for : MR K K MAHANTA (Sr. Advocate)
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 23.07.2024

None appears for the writ petitioner in WP(C)/6133/2023 however, Ms. N. Begum, learned counsel appears for the writ petitioner in WP(C)/118/2022. Also heard Mr. J. Handique, learned Government Advocate representing respondent No.1; Ms. M. Barman, learned Government Advocate and Ms. R. S. Deuri, learned Standing Counsel, Soil Conservation in WP(C)/118/2022.

2. In the last date, query was put by the Court to the learned Government counsels as to whether any permission is required to be obtained from any authority prior to undertaking earthwork.

3. The learned Standing Counsel, Soil Conservation has submitted on the basis of instructions that prior to earthwork an application is to be filed before the Office of the District Commissioner of the concerned District and permission to that effect has to be granted by the District Commissioner. The procedure followed is that on an application filed before the District Commissioner of the concerned district, a joint verification is conducted with the Assam Forest Department and then the same is forwarded to the department of Zoology and Mining. The Zoology and Mining thereafter seeks Environment Clearance from State Environment Impact Assessment Authority (SEIAA) and after obtaining necessary clearance, permission for soil cutting is granted by the District Commissioner of the concerned district.

4. Since the learned counsel for the petitioner in WP(C)/6133/2023 is not

present and the grievance of the writ petitioner in WP(C)/118/2022 is that the writ petitioner in WP(C)/6133/2023 is undertaking earthwork on the plot adjacent to the residential house of the writ petitioner in WP(C)/118/2022 and which has the potential of putting the entire house and the residents of the house including the writ petitioner to danger and the complaints made before the authorities by the petitioner have not been redressed, petitioner is before this Court.

5. In view of such questions raised before the Court, a query was put by Court to which, the learned Standing Counsel, Soil Conservation has submitted today on the basis of the instructions received.

6. The learned Standing Counsel, Soil Conservation is permitted to bring these instructions by way of an additional affidavit. She prays for 2 (two) weeks further time.

7. Accordingly, the matter be listed after 2 (two) weeks enabling the learned Standing Counsel, Soil Conservation to file necessary affidavit.

JUDGE

Comparing Assistant