

GAHC010268782022



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

Case No. : WP(C)/8416/2022

NAZIR HUSSAIN LASKAR AND 46 ORS
S/O LATE HAZI SAMJAD ALI LASKAR, R/O VILL-MODHURBAND PART-II,
P.O. AND P.S.-SILCHAR, CACHAR, PIN-788001

2: SAMSUR UDDIN BARBHUIYA
S/O ABUBAKKAR BARBHUIYA
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

3: JAMAL UDDIN BARBHUIYA
S/O ABUBAKKAR BARBHUIYA
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

4: JAMIR UDDIN MAZUMDAR
S/O LATE KALAMONI MAZUMDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

5: TAJAB ALI
S/O ABDUL RAHMAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

6: AHMED KHAN
S/O ATABUR RAHMAN

R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

7: SEBUL KHAN
S/O ATABUR RAHMAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

8: SAJAHAN KHAN
S/O ATABUR RAHMAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

9: KHALIK KHAN
S/O ATABUR RAHMAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

10: FARUK AHMED BARBHUIYA
S/O SUNAHAR ALI BARBHUIYA
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

11: NIMAR ALI LASKAR
S/O LT. AMJAD ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

12: LOKMAN ALI LASKAR
S/O LT. AMJAD ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

13: AZMAN ALI LASKAR

S/O LT. AMJAD ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

14: ANFAR ALI LASKAR
S/O LT. AMJAD ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

15: ANOWAR HUSSAIN LASKAR
S/O LT. AMJAD ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

16: SAHIN HUSSAIN LASKAR
S/O LT. SURMAN ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

17: SAMIM ALI LASKAR
S/O LT. SURMAN ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

18: SAHED ALI LASKAR
S/O LT. SURMAN ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

19: SURGUM ALI LASKAR
S/O LT. SURMAN ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

20: SUYER ALI LASKAR
S/O LT. SURMAN ALI LASKAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

21: SAIMEN UDDIN
S/O IRFAN ALI BARBHUIYAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

22: FAZAL ALI BARBHUIYAN
S/O IRFAN ALI BARBHUIYAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

23: ISLAM UDDIN BARBHUIYAN
S/O IRFAN ALI BARBHUIYAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

24: KAMRUL ISLAM BARBHUIYAN
S/O IRFAN ALI BARBHUIYAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

25: SAMIR UDDIN BARBHUIYAN
S/O IRFAN ALI BARBHUIYAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

26: SAHAB UDDIN MAZUMDAR
S/O LT. AFTAB UDDIN MAZUNDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

27: SELIM UDDIN LASKAR
S/O LT. SIRAJ UDDIN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

28: AFTAB UDDIN SADIAL
S/O LT. RAMJAN ALI
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

29: JOYNAL ABDIN
S/O LT. RAMJAN ALI
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

30: AKRAM ALI SADIAL
S/O LT. RAMJAN ALI
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

31: BABUL UDDIN MAZUMDAR
S/O LT. ASADDAR ALI
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

32: LEAKUR RAHMAN BARBHUIYAN
S/O SUNAHAR ALI BARBHUIYAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

33: RAKIB UDDIN BARBHUIYAN
S/O LT. AFTAB UDDIN BARBHUIYAN
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR

PIN-788001

34: SHAJAN SADIAL
S/O LT. KUDDUS ALI SADIAL
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

35: RAJAN SADIAL
S/O LT. KUDDUS ALI SADIAL
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

36: LAL BABU SADIAL
S/O LT. IDRIS ALI SADIAL
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

37: SAJU SADIAL
S/O MERAB ALI SADIAL
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

38: KAJAL SADIAL
S/O IDRIS ALI SADIAL
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

39: ALOM UDDIN MAZUMDAR
S/O ASHIQUE UDDIN MAZUMDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

40: FAZIL UDDIN MAZUMDAR
S/O ASHIQUE UDDIN MAZUMDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR

CACHAR
PIN-788001

41: KAMAL UDDIN MAZUMDAR
S/O ASHIQUE UDDIN MAZUMDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

42: JAMAL UDDIN MAZUMDAR
S/O ASHIQUE UDDIN MAZUMDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

43: SAJAL UDDIN MAZUMDAR
S/O ASHIQUE UDDIN MAZUMDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

44: ABDUL HUSSAIN
S/O LT. JALAL UDDIN MAZUMDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

45: REBUL HUSSAIN MAZUMDAR
S/O LT. JALAL UDDIN MAZUMDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

46: DIDAR HUSSAIN MAZUMDAR
S/O LT. JALAL UDDIN MAZUMDAR
R/O VILL-MODHURBAND PART-II
P.O. AND P.S.-SILCHAR
CACHAR
PIN-788001

47: RAJAN HUSSAIN MAZUMDAR
S/O LT. JALAL UDDIN MAZUMDAR
R/O VILL-MODHURBAND PART-II

P.O. AND P.S.-SILCHAR
CACHAR
PIN-78800

VERSUS

THE STATE OF ASSAM AND 4 ORS
TO BE REPRESENTED BY PRINCIPAL SECRETARY TO THE GOVT. OF
ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR,
GUWAHATI-781006

2:DEPUTY COMMISSIONER
CACHAR
SILCHAR
PIN-788001

3:EXECUTIVE ENGINEER
SILCHAR WATER RESOURCE DIVISION
SILCHAR
CACHAR
PIN-788001

4:REVENUE CIRCLE OFFICER
SILCHAR SADAR REVENUE CIRCLE
CACHAR
SILCHAR-788001

5:CHIEF ENGINEER
WATER RESOURCE DEPARTMENT
ASSAM
CHANDMARI
GUWAHATI-78100

Advocate for the Petitioner : MR. N H MAZARBHUIYAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 04.01.2023

Heard Mr. N.H. Mazarbhuyan, learned counsel for the petitioners. Also heard Ms. P. Mahanta, learned Govt. Advocate appearing for respondent no.1,

Mr. J. Handique, learned standing counsel for the respondent nos.2 and 4 and Mr. R.M. Das, learned standing counsel for the respondent nos.3 and 5.

2. The grievance of the petitioners is that the respondent authorities had surveyed their patta land and certain markings were made and it is apprehended that construction of dyke would be carried out on their land without acquiring the land and therefore, on apprehension, the present writ petition has been filed under Article 226 of the Constitution of India.

3. Issue notice returnable on 06.02.2023.

4. Requisite extra copies of the writ petition be furnished to the learned State and Departmental counsel in course of the day.

5. The learned standing counsel for the Water Resources Department has produced a copy of the instruction dated 03.01.2023 received by him from the Executive Engineer, Water Resources Division, Silchar, informing him of the instruction that a dyke is necessary to check the continuous seepage, piping, sloughening etc. that has been going on at Bethukandi near water body named Mahisabeel and that the effort of the department would be to utilize the Govt. khas land and if during final alignment of dyke, any patta land is required, necessary compensation will be provided by District Administration as per existing rules and norms.

6. From the said instructions, it appears that some part of the land of the petitioners may be required for the construction of dyke or its alignment. Therefore, it appears to the Court that the manner in which the project is being taken up by the Water Resources Division, Silchar is without any clear idea of the Water Resource Department as to what they are trying to do. Normally, it

would appear to the Court that before taking up the project of construction of dyke, survey would first be made and there should be clarity as to whether or not any patta land is required. Moreover, if any patta land is required for construction of dyke, it would have been appropriate for the authorities to initiate the process of acquisition of land. But from the instructions received by the learned standing counsel for the respondents, it appears that the Water Resources Department is planning for construction of a dyke, and then if they find that any patta land is required, then they would initiate payment of compensation. Thus, there is no clarity as to whether the State Govt. would initiate any land acquisition process or not.

7. In view of the nature of instruction received by the learned standing counsel for the Water Resources Department from the Water Resources Division, Silchar, the Court finds that this is a fit and appropriate case to restrain the respondent authorities from disposing the petitioners from their patta land without due process of law.

8. A copy of the instruction dated 03.01.2023 is retained on record.

9. List on 06.02.2023.

JUDGE

Comparing Assistant