

GAHC010270472023



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

Case No. : WP(C)/7153/2023

MD KHALIL UDDIN AND 6 ORS
S/O- LATE ABDUL JABBAR,
RESIDENT OF VILLAGE- RANGPUR, PART-VIII,
P.S.- KATLICHERRA, DISTRICT- HAILAKANDI,
ASSAM, PIN- 788163.

2: MD. ROIS UDDIN
S/O- LATE MOFUR ALI
RESIDENT OF VILLAGE- RANGPUR
PART-VIII
P.S.- KATLICHERRA
DISTRICT- HAILAKANDI
ASSAM
PIN- 788163.

3: MD. ROSID ALI
S/O- MD. WAJID ALI
RESIDENT OF VILLAGE- RANGPUR
PART-VIII
P.S.- KATLICHERRA
DISTRICT- HAILAKANDI
ASSAM
PIN- 788163.

4: MD. LAKI MIA
S/O MD. KHOLIL UDDIN
RESIDENT OF VILLAGE- RANGPUR
PART-VIII
P.S.- KATLICHERRA
DISTRICT- HAILAKANDI
ASSAM
PIN- 788163.

5: MD. KABIR UDDIN

S/O- MD. KHALIL UDDIN
RESIDENT OF VILLAGE- RANGPUR
PART-VIII
P.S.- KATLICHERRA
DISTRICT- HAILAKANDI
ASSAM
PIN- 788163.

6: MD. SHAM
S/O- LATE VERAI MIA
RESIDENT OF VILLAGE- RANGPUR
PART-VIII
P.S.- KATLICHERRA
DISTRICT- HAILAKANDI
ASSAM
PIN- 788163.

7: MUSTT. ANGURA BIBI
W/O- KAMIL UDDIN
RESIDENT OF VILLAGE- RANGPUR
PART-VIII
P.S.- KATLICHERRA
DISTRICT- HAILAKANDI
ASSAM
PIN- 788163

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REPRESENTED BY THE PP

2:GULAM MUSTAFA CHOUDHURY
S/O- SAFIL RAJA CHOUDHURY
VILLAGE- RANGAUTI PART-II
P.S. AND DIST- HAILAKANDI
ASSAM
PIN- 788155

Advocate for the Petitioner : MR. B CHAKRAVARTY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH**

O R D E R

11.01.2024.

Heard Mr. B. Chakravarty, learned counsel appearing on behalf of the petitioners, Mr. M. Phukan, learned Public Prosecutor, Assam appears for and on behalf of the State/respondent No.1 and Mr. AHMR Choudhury, learned counsel is appearing on behalf of respondent No.2.

(2) The instant proceedings have been initiated under Article 226/227 of the Constitution challenging the conviction of the petitioners by the learned Special Tribunal, Hailakandi (Additional District & Sessions Judge, Hailakandi) in its order dated 30.09.2023, passed in Special Criminal (L.G.) No.01/2019.

(3) This Court had duly taken note of the fact that although an appeal lies in terms with the provisions of the Assam Land Grabbing (Prohibition) Act, 2010, against such an order which has been assailed in the instant proceeding, however, there is no Appellate Authority constituted by the State of Assam. Under such circumstances, taking into account that the said order which has been impugned in the instant proceeding is an order passed by a Court, this Court is not inclined to exercise the jurisdiction under Article 226 of the Constitution. Therefore, the instant proceeding shall be treated as a proceeding under Article 227 of the Constitution.

(4) Issue notice returnable on 20.02.2024. As all the respondents are represented, the matter is directed to be listed for admission.

(5) This Court have also heard the learned counsel for the parties and is of the opinion that the records pertaining to the Special Criminal (L.G.)

No.01/2019, lying in the custody of the Court of learned Special Tribunal, Hailakandi (Additional District & Sessions Judge, Hailakandi) be called for by the Registry.

(6) This Court further in the interest of justice, stays the sentence so imposed by the impugned order dated 30.09.2023, till the next date.

(7) List accordingly.

JUDGE

Comparing Assistant