

GAHC010271022022



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

Case No. : WP(C)/131/2023

NUR ABBAS AND 2 ORS
S/O.- LATE HAJI ABUAL HUSSAIN,
A RESIDENT OF VILLAGE- MILON NAGAR,
P.O.- BALADMARI, DIST.- GOALPARA,
ASSAM.

2: ASHRAFUL ISLAM MOLLIK
S/O- ANOWAR UZZAMAN MOLLIK

A RESIDENT OF VILLAGE- AMBARI

P.O. AMBARI BAZAR

DST.- GOALPARA
ASSAM.

3: AMANUL HOQUE
S/O- HABIBOR RAHMAN

A RESIDENT OF VILL.- BAMUNPARA

P.O.- MATIA
DIST.- GOALPARA

ASSAM

VERSUS

THE STATE OF ASSAM AND 9 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY,
GOVERNMENT OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT,
ASSAM, DISPUR, GUWAHATI-6. .

2:THE DEPUTY COMMISSIONER
GOALPARA
DIST.- GOALPARA
ASSAM.

3:THE ADDITIONAL DEPUTY COMMISSIONER
GOALPARA
DIST.- GOALPARA
ASSAM.

4:THE GOALPARA ZILLA PARISHAD
TO BE REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER

GOALPARA ZILLA PARISHAD

DIST.- GOALPARA
ASSAM.

5:THE CIRCLE OFFICER
BALIJANA REVENUE CIRCLE
P.O.- BALIJANA

DIST.- GOALPARA
ASSAM.

6:THE BLOCK DEVELOPMENT OFFICER
BALIJANA DEVELOPMENT BLOCK
P.O.- BALIJANA

DIST.- GOALPARA
ASSAM.

7:THE KALYANPUR GAON PANCHAYAT
TO BE REPRESENTED BY ITS SECRETARY

VILL. KALYANPUR

P.O.- KALYANPUR

DIST.- GOALPARA
ASSAM.

8:THE SISHU SAROTHI
TO BE REPRESENTED BY ITS PRESIDENT

R.K. MISSION ROAD

BISHNU RABHA NAGAR

P.O.- BIRUBARI
GUWAHATI

DIST.- KAMRUP(M)
ASSAM.
PIN- 781016.

9:THE SISHU VIKASH KENDRA
GOALPARA
TO BE REPRESENTED BY ITS SECRETARY

BHALUKDUBI
P.O.- BALADMARI

DIST.- GOALPARA
ASSAM

PIN- 783121.

10:SHAILAN DAS
PRESIDENT OF THE SISHU VIKASH KENDRA
GOALPARA

C/O- KULODA CHARAN DAS

R/O- NAYAPARA

P.O.- AND DIST.- GOALPARA

ASSAM. PIN- 783101

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

09.01.2023

Heard Mr. M.A.I. Hussain, learned counsel for the petitioner, Mr. M. Debnath, learned counsel for respondent nos. 1, 4, 6 and 7 as well as Mr. K. Gogoi, learned Govt. advocate appearing for respondent nos. 2 , 3, 5 and 6.

The case of the petitioners is that they are allottees of three rooms from where they are operating their pharmacy. It is submitted that an adjacent plot of land was allotted by the State to the Sishu Bikash Kendra for the purpose of constructing an "early intervention centre".

By referring to annexure-8 to the writ petition, it is projected that the Sishu Sarathi had set up a board for early intervention centre at the said plot of land. However, it is alleged that the respondent nos. 8 to 10 are carrying out construction of commercial business complex on the allotted land and therefore, the petitioners had submitted their representation before the Deputy Commissioner, Goalpara. It is projected that by an order under memo no. GRS.01/2020/198 dated 17.10.2022 (annexure-11), the Addl. Deputy Commissioner, Goalpara had directed the Circle Officer, Balijana Revenue Circle to take immediate steps to stop the construction work and to submit an action taken report. However, as the construction is allegedly going on over the land allotted to the respondent no.8, the present writ petition has been filed under Article 226 of the constitution of India.

The learned standing counsel for the P&RD Department has raised a preliminary objection as to the maintainability of the writ petition as the shops of the three petitioners have been allotted by separate orders and therefore, it is submitted that the three separate writ petitions ought to have been filed.

The Court does not find any merit in the said submission as the petitioners are not aggrieved by their allotment orders, but they are agitating the cause of

a construction being going on over the adjacent plot of land.

Issue notice returnable in 4(four) weeks.

Requisite extra copy of the writ petition be served on the learned State and departmental counsel in course of the day.

The petitioner shall take steps within 2 days for service of notice on respondent nos. 7 to 10 by registered post with A/D.

As an interim measure, the Deputy Commissioner, Goalpara (respondent no. 2) and the Addl. Deputy Commissioner (respondent no.3) are directed to take stock of the present stage of construction in light of the hereinbefore referred order memo no. GRS.01/2020/198 dated 17.10.2022 issued by the Deputy Commissioner, Goalpara.

List after 4(four) weeks.

JUDGE

Comparing Assistant