

GAHC010280822018



2026:GAU-AS:3276

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

Case No. : WP(C)/8867/2018

M/S. M.D.K. BRICK FIELD
REP. BY SOLE PROPRIETOR OF THE FIELD BY MD. KUDUS SHAH, AGE
ABOUT 40 YEARS,
R/O NO. 1 MAKUM PATHER,
P.O. AND P.S. MARGHERITA
SUB-DIVISION- MARGHERITA
DIST. TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY COMMISSIONER AND SECRETARY REVENUE AND DISASTER
MANAGEMENT, GOVT. OF ASSAM, DISPUR, GUWAHATI-06.

2:THE DEPUTY COMMISSIONER

DIST. TINSUKIA
ASSAM

PIN - 786125.

3:THE SUB-DIVISIONAL OFFICER

MARHERITA SUB DIVISION

DIST. TINSUKIA
ASSAM
PIN - 786181

4:SHRI RANJIT KUMAR RAY
SON OF RAM UDGAR RAY
VILL. AND P.O. - AGBANDHA SAIDING

P.S. - MARGHERITA
DISTRICT- TINSUKIA
ASSAM
PIN- 786187

5:SHRI DEVAJIT MORAN
SECRETARY OF NGO
GREEN BUD SOCIETY(BEARING REGISTRATION NO. TSK/244/D/04)
SON OF JOGESWAR MORAN
VILL AND P.O.- TINGRAI VAZAR
NO. 1 ASAMIYA GAON
P.S.- DIGBOI
DISTRICT- TINSUKIA
ASSAM - 786171
REGISTERED ADDRESS OF THE NGO- 3 NO. BORBILL RAMNAGAR
P.O.- DIGBOI
DISTRICT- TINSUKIA
ASSAM- 78616

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

Advocates for the petitioner(s) : Mr. IA Talukdar

Advocates for the respondent(s) : Mr. R Barpujari,
Standing Counsel
Revenue & Disaster
Management Department,
Govt. of Assam

Date on which Judgment is reserved: NA

Date of Pronouncement of Judgment : **27.02.2026**

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. IA Talukdar, the learned counsel appearing on behalf of the petitioner. I have also heard Mr. R Barpujari, the learned Standing Counsel, Revenue and Disaster Management Department, who appears on behalf of the respondent No.1. However, the other State respondents remain unrepresented.

2. The petitioner herein has assailed the order dated 26.10.2018, whereby the Proprietor/Manager of Unit-II of the MDK Brick Fields was directed to stop operation of the Kiln immediately and demolish Unit II of the petitioner within 10 days of the receipt of the said order and further, the Sub-Divisional Officer (Civil) was also directed to verify whether the direction of stoppage of operation as well as demolition is followed within the time limit specified, and on failure to comply by the Proprietor/Manager of MDK Brick Fields, the Sub-Divisional Officer (Civil) Margherita was directed to comply within 10 days beginning with the last date for compliance.

3. The record reveals that this Court, while issuing notice on 21.12.2018, stayed the impugned order dated 26.10.2018. The record further reveals that an affidavit was filed by the respondent No.2 on 24.11.2023, wherein it was mentioned that the Unit II of the petitioner's unit was still running, and thereby it violated the order of the Deputy Commissioner, Tinsukia that was issued vide the Office letter dated 20.12.2019. It was also mentioned that the Unit II of the

petitioner stands in 200 meters distance from petitioner's Unit-I, which in turn violates the provision stated under the *Assam Brick Kilns Establishment and Regulation Rules, 2013*.

4. This Court has duly taken note of the *Assam Brick Kilns Establishment and Regulation Rules, 2013* (for short, *the Rules of 2013*). Rule 2 of the Rules of 2013 stipulates the location of the brick kiln. In terms with Rule 2(iv), the distance between two brick kilns shall not be less than 500 meters to avoid clustering of brick kilns in an area, and if a new brick kiln is being installed.

5. Taking into account the stand which have been taken by the respondent authorities, more particularly, the respondent No.2, in the affidavit-in-opposition, which is not denied that the petitioner's Unit II stands within 200 meters distance from the petitioner's Unit I, the same violates Rule 2(iv) of the *Rules of 2013*.

6. Accordingly, this Court does not find any good ground for interfering with the impugned order. Consequently, the writ petition stands dismissed.

7. The interim order passed earlier stands vacated.

JUDGE

Comparing Assistant