

GAHC010005992024



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

Case No. : WP(C)/159/2024

ATIQUR RAHMAN AND 123 ORS
S/O LATE MUBOJIL ALI.

2: KARMUS ALI
S/O LATE SAIYAB ALI.

3: SRI NAZIM UDDIN
S/O SRI AKRAM ALI.

4: MAHI UDDIN
S/O- TAFJUL ALI.

5: SIRAJ UDDIN
S/O- LATE MAKADDAS ALI.

6: MASADDAR ALI
S/O- LATE AKIN ALI.

7: AJIR UDDIN
S/O- LATE AKIN ALI.

8: ABDUL MATIN
S/O- LATE MOIN UDDIN.

9: MAHABAT ALI
S/O- LATE WAJIT ALI.

10: ABDUL MANNAN
S/O- LATE ASAD ALI.

11: MANIR UDDIN
S/O- LATE SAMIR UDDIN.

12: BADAR UDDIN
S/O- LATE ABDUL FATTA.

13: AKRAM ALI
S/O- LATE ROIS ALI.

14: SUFIYAN UDDIN
S/O- AKRAM ALI.

15: ABDUL HANNAN
S/O- SRI NAJAFAT ALI.

16: MATIUR RAHMAN
S/O- LATE MUBAJIL ALI.

17: JAIN UDDIN
S/O- LATE SHAMSUL HOQUE.

18: NAJIM UDDIN
SO/- LATE SHAMSUL HOQUE.

19: SAIF UDDIN
SO/- LATE SHAMSUL HOQUE.

20: ALIM UDDIN
SO/- LATE SHAMSUL HOQUE.

21: FAJAIL AHMED
S/O- LATE SAKAUT ALI.

22: FAKAR UDDIN
S/O- LATE SAKAUT ALI.

23: HARIS ALI
S/O- LATE SAIYAB ALI.

24: BAHAR UDDIN
S/O- LATE TAFAJUL ALI.

25: ALKAS ALI
S/O- LATE NENU MIA.

26: SALIK UDDIN
S/O- LATE TAFAZZUL ALI.

27: ATAUR RAHMAN
S/O- LATE AMIR ALI.

28: ASADDOR ALI
S/O- LATE AKIN ALI.

29: ALI HUSSAIN
S/O- SRI MAHI UDDIN.

30: AYATUN NESSA
W/O- LATE RAJAN ALI.

31: JAYNAL UDDIN
S/O- LATE RAJAN ALI.

32: MAFAR ALI
S/O- LATE RAICH ALI.

33: AINUL HOQUE
S/O- LATE FARIJ ALI.

34: MOYNUL HOQUE
S/O- LATE FORIJ ALI.

35: HANIF UDDIN
S/O- LATE SAMIR UDDIN.

36: ALTAF UDDIN
S/O- SRI TACHABIR ALI.

37: SAKAR ALI
S/O- LATE JOWAID ALI.

38: UNUCH AHMED
S/O- LATE NOJIR AHMED.

39: RYAJ UDDIN
S/O- LATE RABIJ ALI.

40: CHAYRA BEGUM
W/O- ABU MD. MUJAKKIR HUSSAIN.

41: ABDUL HOQUE
S/O- LATE TASARUF ALI.

42: AMIR UDDIN
S/O- LATE HABIB ALI.

43: MAIN UDDIN
S/O- LATE SAMIR UDDIN.

44: ACHAB UDDIN
S/O SRI AKRAM ALI.

45: SAIM UDDIN
S/O- LATE ABDUL FATTA.

46: ALI AKBAR
S/O- LATE INTAJ ALI.

47: NIZAM UDDIN
S/O- LATE SHAMSUL HOQUE.

48: ACHAR UDDIN
S/O LATE BASIR UDDIN.

49: TAJ UDDIN
S/O LATE BASIR UDDIN.

50: ABDUL KALAM
S/O LATE SAMJID ALI.

51: ALI AHMED
S/O SRI A. MATALIB.

52: HUSSAIN AHMED
S/O SRI FOYAJ ALI.

53: HELAL UDDIN
S/O LATE NIMAR ALI.

54: RAIYAJ ALI
S/O LATE KAMUD ALI.

55: GIASH UDDIN
S/O LATE SRI KOTAN ALI.

56: FAKHAR UDDIN
S/O LATE ASIK ALI.

57: FAYJUL HOQUE
S/O LATE NARMUJ ALI.

58: AYAJ ALI
S/O LATE RAMIJ ALI.

59: MAIN UDDIN
S/O LATE CHAD UDDIN.

60: AYNUL HOQUE
S/O LATE HOBIB ALI.

61: SHUKKUR ALI
S/O LATE ANFAR ALI.

62: BADRUL ISLAM
S/O LAE NERMUJ ALI.

63: ABUL HUSSAIN
S/O- SRI SIDDIQUE ALI.

64: BILAL UDDIN
S/O SRI ABDUL MAJID.

65: MASUM UDDIN
S/O SRI ABDUL MAJID.

66: KABIR HUSSAIN
S/O LATE SIDDIQUE ALI.

67: ANOWAR ALI
S/O LATE SOYAIB ALI.

68: SHUKKUR ALI
S/O LATE HABIB ALI.

69: BASIR UDDIN
S/O LATE SORAIR ALI.

70: MAINUL HOQUE
S/O LATE AZMIR ALI.

71: ABDUL MONAF
S/O SRI ALA UDDIN.

72: NAJRUL ISLAM
S/O SHEIKH NEBMUJ ALI.

73: RAICH ALI
S/O LATE BATAL ALI.

74: CHAYDUL HOQUE
S/O- SRI LOKMAN ALI.

75: ASAB UDDIN
S/O LATE MASADDAR ALI.

76: KADDUSUR RAHMAN
S/O SRI ATAUR RAHMAN.

77: MATIUR RAHMAN
S/O SRI SANAI MIYA.

78: KAMAL UDDIN
S/O LATE INCHAN ALI.

79: MAYNA MIYA @ ABDUL MOTLIB
S/O LATE SAMJID ALI.

80: JAYNAL HOQUE
S/O SRI ACHAD UDDIN.

81: CHARKUM ALI
S/O LATE ASAID ALI.

82: CHIKANDAR ALI
S/O LATE ABAD ALI.

83: SAHAB UDDIN
S/O LATE SURUJ ALI.

84: AJIR UDDIN
S/O LATE CHAD UDDIN.

85: ALEKJAN BIBI
W/O LATE HARICH ALI.

86: NAJIM UDDIN
S/O- SIKANDAR ALI.

87: AFTAR ALI
S/O LATE FARICH ALI.

88: ABUL HOSEN
S/O LATE AJMIR ALI.

89: SURUJ ALI
S/O LATE INCHAN ALI.

90: HARUN ISLAM
S/O SRI ROFIK ALI.

91: HARICH UDDIN
S/O AKADDACH ALI.

92: FARID ALI
S/O LATE CHAMAN ALI.

93: ABDUL MANNAN
S/O LATE SAMJID ALI.

94: SAYADR RAHMAN
S/O LATE ATAUR RAHMAN.

95: KOMRUL HOQUE
S/O LATE ASHAB ALI.

96: ABDUL HANNAN
S/O LATE SAFIK ALI.

97: ABDUL SUFAN
S/O- LATE HABIB ALI.

98: KASIM ALI
S/O LATE ABDUL JUWAHIR.

99: BADARUL HOQUE
S/O LATE GANIR ALI.

100: ABDUL MATIN
S/O LATE HABIB ALI.

101: ABDUL HOQUE
S/O LATE HABIB ALI.

102: ABDUL LATI
S/O LATE SANAI MIYA.

103: ABDUL MATLIF
S/O SRI SANI MIYA.

104: MANAF UDDIN
S/O LATE MONU MIYA.

105: NURUL HOQUE
S/O SRI SURMAN ALI.

106: ABDUL HANNAN
S/O LATE HABIB ALI.

107: ABDUL KALAM
S/O SRI HAJI HABIB ALI.

108: ABDUL MATLIB
S/O LATE BASIR UDDIN.

109: ASAR UDDIN
S/O LATE BASIR UDDIN.

110: SUFIAN UDDIN
S/O SRI NIYAJ ALI.

111: AFIYAN UDDIN
S/O SRI NIYAJ ALI.

112: NIYAJ ALI
S/O LATE INCHAN ALI.

113: MOZIR UDDIN
S/O LATE ASHID ALI.

114: KAMAL UDDIN
S/O LATE ASHID ALI.

115: ABDUL KALAM
S/O LATE ASHID ALI.

116: SARIF UDDIN
S/O SRI TERA MIYA.

117: MUSLAM UDDIN
S/O LATE NIMAR ALI.

118: JAMAL UDDIN
S/O LATE TAPJUL ALI.

119: ANAM UDDIN
S/O LATE SUNAM UDDIN.

120: SAAD UDDIN
S/O SRI AJMIR ALI.

121: ATAUR RAHMAN
S/O LATE MATCHIN ALI.

122: FAYAJUR RAHMAN
S/O SRI ATAUR RAHMAN

123: MAYNUL HOQUE
S/O SRI SIDDEK ALI.

124: HIJUR RAHMAN
S/O SRI SIDDEK ALI.
ALL ARE RESIDENTS OF VILLAGE MADHURBOND
P.O. BHURUNGA
P.S. PATHARKANDI
DISTRICT- KARIMGANJ
ASSAM. PIN- 788724

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
GOVERNMENT OF ASSAM, ASSAM SECRETARIAT, DISPUR, GUWAHATI,
ASSAM. PIN- 781006.

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
GOVERNMENT OF ASSAM
ASSAM SECRETARIAT
DISPUR
GUWAHATI
ASSAM. PIN- 781006.

3:THE DEPUTY COMMISSIONER
KARIMGANJ
ASSAM.

4:THE CIRCLE OFFICER
PATHARKANDI
REVENUE CIRCLE
PATHARKANDI
DISTRICT- KARIMGANJ
ASSAM.

5:THE SETTLEMENT OFFICER
DISTRICT-KARIMGANJ
ASSAM.

6:THE ASSISTANT SETTLEMENT OFFICER
PATHARKANDI
DISTRICT- KARIMGANJ
ASSAM.

7:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE

ARANYA BHAWAN
PANJABARI
GUWAHATI
ASSAM. PIN- 781037.

8:THE CHIEF CONSERVATOR OF FORESTS
SOUTHERN ASSAM CIRCLE
SILCHAR
ASSAM.

9:THE RANGE FOREST OFFICER
DUHALIA RANGE
DISTRICT- KARIMGANJ
ASSAM.

10:THE DIVISIONAL FOREST OFFICER
KARIMGANJ
ASSAM

For the Petitioner(s) : Mr. S. Borthakur, Advocate

For the Respondent(s) : Mr. I. Borthakur, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : **12.01.2024**

1. The instant writ petition has been taken up for disposal at the motion stage itself taking into account the facts involved.
2. The facts of the instant case as could be discernible from a perusal of the writ petition are that the Petitioners herein claims that they are residents of village Madhurbond, P.O: Bhurunga, under Police Station Patharkandi in the District of Karimganj. It is the specific case of the Petitioners that they have not encroached upon the reserve forest upon the Duhalia Protected Forest and have also not constructed any house, pond as alleged in various notices which have

been issued.

3. The grievances of the Petitioners are that the Forest Officials without taking into consideration that the Petitioners are actually residing in the revenue village land at Madhurbond have issued the various notices to the Petitioners that they have entered into the Duhalia Protected Forest and constructed houses, ponds and converted the forest land into agricultural land for which the instant writ petition has been filed.

4. This Court has also heard Mr. I. Borthakur, the learned Standing counsel appearing on behalf of the Forest Department who supports the impugned notices which have been issued on the ground that the Petitioners are in illegal occupation of the Duhalia Protected Forest area.

5. The dispute which has been raised inter se between the Petitioners and the Respondents cannot be decided in the instant proceedings inasmuch as whether the Petitioners are in occupation of revenue village land or have encroached upon the Duhalia Protected Forest are questions of facts which can be decided on the basis of proper field verification. This issue however can be resolved by issuing appropriate directions by this Court.

6. Accordingly, the instant writ petition therefore stands disposed of with the following observations and directions:

(i) This Court directs the Circle Officer, Patharkandi Revenue Circle, Patharkandi who is the Respondent No.4 in the instant proceedings as well as the Range Officer, Duhalia who is the Respondent No.9 in the instant writ proceedings to carry out the verification as to whether the Petitioners are in possession of land within the village Madhurbond or had encroached in the Duhalia Protected Forest area on the basis of the available maps and on site

field verification. The said verification shall be conducted on site on 30.01.2024 at 11 AM. The said officials shall permit the Petitioners through a representative to be present while carrying out the said on site verification. The Petitioners are directed to choose a representative to represent them during the on site field verification. Depending upon the said outcome of verification, the Respondent Authorities shall take appropriate steps in accordance with law.

(ii) This Court further directs that till the verification is concluded, the possession of the Petitioners as they stands today shall not be disturbed.

JUDGE

Comparing Assistant