

GAHC010052292024



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

Case No. : WA/333/2024

AFZALUR RAHMAN AND 18 ORS
S/O HUSSEN ALI

2: ABU BOKKAR SIDDIQUE
S/O NURUL ISLAM

3: HANIF ALI MIAH
SON OF LATE HAZRAT ALI.

4: ABDUL BAREK
S/O IZZOT ALI

5: SAHAR ALI
SON OF ABDUL RAHMAN

6: AKBAR ALI
S/O HAZRAT ALI

7: MINHAIJ UDDIN
S/O ABDUR RASHID

8: ISOB ALI
S/O HAZRAT ALI

9: ISMAIL HUSSAIN
S/O SITAL SK.

10: SOFIOR RAHMAN
S/O NOSHAD ALI

11: SRI ABDUL JALIL
S/O MAJOM ALI

12: SRI NURUL ISLAM
S/O MOHAMMAD ALI

13: SRI WAJAD ALI
S/O KAJIMUDDIN MUNCHI

14: SRI ROWSHAN ALI
S/O IMAN ALI

15: SRI RAHIJ UDDIN
S/O SARFULLA SK.

16: SRI CHAN MIAH
S/O SUMOR ALI

17: SRI REZZA HASSAN ALI
S/O SUKUR ALI

18: SRI ABDUL KHALEQUE
S/O MAJOM ALI

19: ON THE DEATH OF HAFIJDDUDDIN AHMED
REPRESENTED BY HIS WIFE NAMELY TARA BHANU BIBI
W/O LATE HAFIJUDDIN AHMED

ALL ARE RESIDENT OF ASHUDUBI
PO AND PS KRISHNAI
DIST GOALPARA
ASSAM 78312

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMM.and SECY. TO THE GOVT. OF ASSAM, FOREST DEPTT.,
DISPUR, GHY.-06.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM REVENUE DEPARTMENT
DISPUR GUWAHATI 781006

3:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
GOVT OF ASSAM
REHABARI
GUWAHATI 781008

4:THE ANCHALIK FOREST OFFICER
MADHYA RESERVED FOREST

KRISHNAI
DIST GOALPARA
DIST GOALPARA
ASSAM
783126

5:THE DEPUTY COMMISSIONER
GOALPARA
ASSAM

6:THE SETTLEMENT OFFICER

GOALPARA
ASSAM

7:THE CIRCLE OFFICER

MATIA REVENUE CIRCLE
PO AND PS MATIA
DIST GOALPARA ASSA

Advocate for the Petitioner : MR. A A R KARIM, MR M HOQUE,MS G.PURI,Ms. R. R. BORAH,MR. M ALI,MR J. ISLAM,MR K K MAHANTA (Sr. Advocate),MR. M U MAHMUD

Advocate for the Respondent : SC, FOREST, GA, ASSAM

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 24.09.2024
(Vijay Bishnoi, CJ)

This writ appeal has been filed on behalf of the appellants being aggrieved with the order dated 02.02.2024, passed by the learned Single Judge in WP(C)/8101/2017.

The appellants have approached the writ Court being aggrieved with the notice dated 06.12.2017, issued by the Anchalik Forest Officer, Madhya Reserve Forest, district Goalpara, Assam.

The notice dated 06.12.2017 is a general notice, wherein, it has been mentioned that the persons who had illegally occupied the land of Reserved Forest (RF), or Proposed Reserved Forest (PRF) by constructing dwelling houses, they are directed to release (left) the forest land within 31.12.2017 to make the forest land completely free with a caution that otherwise, appropriate action would be taken against the illegal land occupier as per the department's rule. The appellants have challenged the validity of the said notice on the ground that the same is illegal and without jurisdiction.

The learned Single Judge has held that no rights can be created or approved in the RF or PRF lands; and therefore, there is no illegality in the notice dated 06.12.2017. At the same time, the learned Single Judge had also clarified that the Forest authorities can only exercise its jurisdiction in the RF or PRF lands and not in respect of the revenue lands.

The appellants have filed this Intra Court appeal apprehending that since the learned Single Judge has held that there is no illegality in the notice dated 06.12.2017, the Forest authorities may act against the appellants, who are not occupying the RF or PRF lands and are only in possession of the revenue lands.

Having heard the learned counsel for the appellants and after taking into consideration the impugned Judgment dated 02.02.2024, passed by the learned Single Judge in WP(C)/8101/2017; as well as the materials placed on record, we make it clear that though the learned Single Judge had opined that there is no illegality in the notice dated 06.12.2017, but, had also made clear that the Forest authorities can only exercise its jurisdiction in the RF and PRF lands and not in respect of the revenue lands, we hereby clarify that before taking any actions against the appellants or similarly situated persons, pursuant to the notice dated 06.12.2017, the Forest authorities are required to ascertain that the lands so occupied by the appellants or similarly situated persons, falls within the RF or PRF lands and after ascertaining the

same, the Forest authorities can take any action against only those persons who have illegally occupied the RF or PRF lands.

With the above observations, the writ appeal stands disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant