

GAHC010228102021



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

Case No. : WA/364/2021

KANAI BISWAS
S/O NIRMAL BISWAS, R/O- MAJARATI VILLAGE, P.O. AND P.S. SAMAGURI,
DIST. NAGAON, ASSAM-782140.

VERSUS

M/S RANGAGARH MIN SILPA SAMABAY SAMITTEE LTD. AND 9 ORS.
REP. BY ITS SECRETARY SRI PARESH BARMAN, S/O- LATE NARENDRA
NATH BARMAN, R/O- VILL.- GOTENGARA, P.O. RANGAGARA, P.S.
SAMAGURI, DIST. NAGAON, ASSAM-782140.

2:BHUMIDHAR DAS

S/O LATE MATH RAM DAS
R/O VILL. GERUAMUKH
P.O. BAJAIGAON
P.S. KHATOWAL
DIST. NAGAON
ASSAM
PIN 782140

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM
FISHERY DEPTT.
DISPUR
GUWAHATI
PIN 781006
KAMRUP (M) DIST.
ASSAM.

4:ASSAM FISHERIES DEVELOPMENT CORPORATION (A.F.D.C.) LTD.

VIP ROAD
CHACHAL
GUWAHATI 781036
KAMRUP (M) DIST.
ASSAM
REPRESENTED BY ITS MANAGING DIRECTOR.

5:THE CHAIRMAN

ASSAM FISHERIES DEVELOPMENT CORPORATION (A.F.D.C.) LTD.
VIP ROAD
CHACHAL
GUWAHATI 781036
KAMRUP (M) DIST.
ASSAM.

6:THE MANAGING DIRECTOR

ASSAM FISHERIES DEVELOPMENT CORPORATION (A.F.D.C.) LTD.
VIP ROAD
CHACHAL
GUWAHATI 781036
KAMRUP (M) DIST.
ASSAM.

7:THE REGIONAL PROJECT MANAGER

MIDDLE ASSAM REGION
ASSAM FISHERIES DEVELOPMENT CORPORATION (A.F.D.C.) LTD. VIP
ROAD
CHACHAL
GUWAHATI 781036
KAMRUP (M) DIST.
ASSAM.

8:THE PROJECT MANAGER

MIDDLE AND UPPER ASSAM REGION
MORIGAON
ASSAM FISHERIES DEVELOPMENT CORPORATION (AFDC) LTD.

9:JURI DAS

D/O LATE RABIN DAS
R/O SAMAGURI BILLPAR (SAMAGURI GRANT)
P.O. AND P.S. SAMAGURI
DIST. NAGAON

ASSAM
PIN 782140

10:AQUACULTURE DEV. ORGANIZATION FOE ST
SC AND BACKWARD CLASSES

ASSAM
AN NON GOVERNMENTAL ORGANIZATION (NGO)
REPRESENTED BY ITS CHAIRPERSON SRI ARUP DAS
S/O LATE JOGESWAR BORA
R/O LAILUL
P.O. LAILUI
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN 78212

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : GA, ASSAM

Linked Case : I.A.(Civil)/2497/2021

KANAI BISWAS
S/O NIRMAL BISWAS
R/O- MAJARATI VILLAGE
P.O. AND P.S. SAMAGURI
DIST. NAGAON
ASSAM-782140.

VERSUS

M/S RANGAGARH MIN SILPA SAMABAY SAMITTEE LTD. AND 9 ORS.
REP. BY ITS SECRETARY SRI PARESH BARMAN
S/O- LATE NARENDRA NATH BARMAN
R/O- VILL.- GOTENGARA
P.O. RANGAGARA
P.S. SAMAGURI
DIST. NAGAON
ASSAM-782140.

2:BHUMIDHAR DAS

S/O LATE MATH RAM DAS
R/O VILL. GERUAMUKH
P.O. BAJAIGAON
P.S. KHATOWAL
DIST. NAGAON
ASSAM
PIN 782140

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM
FISHERY DEPTT.
DISPUR
GUWAHATI
PIN 781006
KAMRUP (M) DIST.
ASSAM.

4:ASSAM FISHERIES DEVELOPMENT CORPORATION (A.F.D.C.) LTD.

VIP ROAD
CHACHAL
GUWAHATI 781036
KAMRUP (M) DIST.
ASSAM
REPRESENTED BY ITS MANAGING DIRECTOR.
5:THE CHAIRMAN

ASSAM FISHERIES DEVELOPMENT CORPORATION (A.F.D.C.) LTD.
VIP ROAD
CHACHAL
GUWAHATI 781036
KAMRUP (M) DIST.
ASSAM.
6:THE MANAGING DIRECTOR

ASSAM FISHERIES DEVELOPMENT CORPORATION (A.F.D.C.) LTD.
VIP ROAD
CHACHAL
GUWAHATI 781036
KAMRUP (M) DIST.
ASSAM.
7:THE REGIONAL PROJECT MANAGER

MIDDLE ASSAM REGION
ASSAM FISHERIES DEVELOPMENT CORPORATION (A.F.D.C.) LTD. VIP
ROAD
CHACHAL
GUWAHATI 781036

KAMRUP (M) DIST.
ASSAM.
8:THE PROJECT MANAGER

MIDDLE AND UPPER ASSAM REGION
MORIGAON
ASSAM FISHERIES DEVELOPMENT CORPORATION (AFDC) LTD.
9:JURI DAS

D/O LATE RABIN DAS
R/O SAMAGURI BILLPAR (SAMAGURI GRANT)
P.O. AND P.S. SAMAGURI
DIST. NAGAON
ASSAM
PIN 782140
10:AQUACULTURE DEV. ORGANIZATION FOE ST
SC AND BACKWARD CLASSES

ASSAM
AN NON GOVERNMENTAL ORGANIZATION (NGO)
REPRESENTED BY ITS CHAIRPERSON SRI ARUP DAS
S/O LATE JOGESWAR BORA
R/O LAILUL
P.O. LAILUI
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN 782120

Advocate for : MR. B D KONWAR SR. ADV.
Advocate for : GA
ASSAM appearing for M/S RANGAGARH MIN SILPA SAMABAY SAMITTEE
LTD. AND 9 ORS.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : --29.12.2021

Heard Mr. B.D. Konwar learned Senior Counsel assisted by Ms. D. Sarma, the learned counsel for the applicant. Also heard Mr. A. Sarma, the learned standing counsel for the AFDC/respondent nos. 4 to 8 and Mr. S.R. Barua, learned Government counsel appearing for the

respondent no. 3.

2) By way of the connected intra- Court appeal the applicant, who is arrayed as respondent no. 7 in WP(C) No. 6662/2021, has assailed the interim order dated 21.12.2021, passed in WP(C) No. 6662/2021.

3) By referring to the statements made in paragraph 7 of this writ petition, the learned senior counsel for the applicant has submitted that the respondent no. 1 and 2 had projected in the writ petition that the letter dated 20.07.2017, by which they were awarded the Samaguri Beel (Fishery) of Nagaon district under PPP (Public Private Partnership) mode had clear indication about extension of the said fishery for another period of 7 years. It is submitted that perhaps owing to the said projection, by an order dated 13.12.2021 in the writ petition, a direction was issued to the AFDC to place relevant records in original pertaining to memo No. AFDC-444/2020/184-A, dated 26.10.2021 by which, settlement of the said fishery was made in favour of the appellant and respondent no.9. On 21.12.2021, when the matter was listed, the records are not produced and therefore, while adjourning the matter to 24.01.2022, till then, the said order dated 26.10.2021, issued by respondent no. 6 was suspended. The learned senior counsel for the applicant has submitted that on 15.11.2021, the applicant had already taken over the possession of the said fishery (Annexure-G) and that upon payment of the first instalment on the same day, an agreement was entered into between the AFDC and the appellant on 15.11.2021 (Annexure E). Accordingly, it is submitted fact that the applicant has taken over the possession of the said fishery was not disclosed in the writ petition.

4) The learned standing counsel for the respondent nos. 2 to 6 has submitted that the said fishery was initially settled on PPP mode in favour of one Bhaginath Das, for an initial period of four years and it was provided that on satisfactory performance, the settlement was extendable to for another seven years. It is submitted that the said settlement holder could not operate the fishery and his four years term expired on 19.07.2021 and thus, the currency of the said settlement period was from 20.07.2017 to 19.07.2021 for all intense and purpose.

- 5) The respondent no. 1 herein M/s. Rangagarh Min Silpa Samabay Samittee Ltd was engaged for operating the said fishery for the left over period between 20.07.2017 to 19.07.2021. It is submitted that there was no assurance in the said settlement order under memo no. AFDC. 186/2017/2718-30 dated 24.10.2017, that there would be further extension of settlement for a further period of seven years on successful operation of the period of settlement. It is further submitted that after expiry of the term, on 19.07.2021, the respondent no. 1 had submitted their representation only on 24.08.2021. By referring to the vernacular version of the said letter dated 19.07.2021 (Annexure-7), it is submitted that after the expiry of the period of lease, the said representation was appropriately not responded to. It is further submitted that as per his instructions the applicant has already taken over the possession.
- 6) Considering the projection made in the connected memo of appeal vide Annexure- E and G that the appellant has already taken over the possession of the Samaguri Beel (Fishery) of Nagaon district in PPP Mode, the operation of the interim order passed on 21.12.2021, in WP(C) No. 6662/2021 shall remain suspended until further order.
- 7) This interlocutory application stands disposed of.

JUDGE

Comparing Assistant