

GAHC010186142025



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

Case No. : WP(C)/4786/2025

JIAUR RAHMAN AND 6 ORS
S/O- ABDUL SUBHAN, R/O- VILL.- LAOGAON, P.O. SOULMARI, DIST.
NAGAON, ASSAM

2: RUKSHANA KHATUN
W/O- JIAUR RAHMAN
R/O- VILL.- LAOGAON
P.O. SOULMARI
DIST. NAGAON
ASSAM

3: WAHIDUR RAHMAN
S/O- LATE AKKAS ALI
R/O- VILL.- LAOGAON
P.O. SOULMARI
DIST. NAGAON
ASSAM

4: ABDUL JABBAR
S/O- JABED ALI
R/O- VILL.- ROWMARI
P.O. SOULMARI
DIST. NAGAON
ASSAM

5: HASINUR RAHMAN
S/O- ABDUL SUBHAN
R/O- VILL.- ROWMARI
P.O. SOULMARI
DIST. NAGAON
ASSAM

6: ASHIQUR RAHMAN
S/O- ABDUL SUBHAN

R/O- VILL.- ROWMARI
P.O. SOULMARI
DIST. NAGAON
ASSAM

7: SUKUR ALI
S/O- LATE SUHAB ALI
R/O- VILL.- ROWMARI
P.O. SOULMARI
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM AND 8 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
ASSAM, PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI-6.

2:THE UNION OF INDIA
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
INDIA
MINISTRY OF PANCHAYAT RAJ
J.P. BUILDING 25
K.G. MARG
NEW DELHI-01.

3:THE DISTRICT COMMISSIONER
NAGAON
P.O. AND DIST. NAGAON
ASSAM

4:THE CHIEF ENGINEER
P.W.D. (ROADS)
ASSAM
CHANDMARI
GUWAHATI-3.

5:THE EXECUTIVE ENGINEER
PWD
NAGAON
BARHAMPUR AND RUPAHIHAT TERRITORIAL ROAD DIVISION
DIST. NAGAON
ASSAM

6:THE CIRCLE OFFICER
NAGAON SADAR REVENUE CIRCLE
P.O. AND DIST. NAGAON

ASSAM

7:THE EXECUTIVE OFFICER
KHAGORIJAN ANCHALIK PANCHAYAT
SENSOWA
NAGAON
DIST. NAGAON
ASSAM

8:THE SECRETARY OF LAOGAON GAON PANCHAYAT
LAOGAON
P.O. SOLMARI
DIST. NAGAON
ASSAM

9:K.K. ENGINEERS
HOUSE NO. 35
NIZARAMUKH PATH
SANTIPUR HILL SIDE
P.O. BHARALUMUKH
DIST. NAGAON
ASSA

Advocate for the Petitioner : MR. P K ROYCHOUDHURY, MR. N HAQUE,MR. A K AZAD,MR
M HUSSAIN

Advocate for the Respondent : GA, ASSAM, GA, ASSAM,SC, PWD ROAD,SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

29.08.2025

Heard Shri P.K. Roy Choudhury, learned counsel for the petitioners. Also heard Shri D. Nath, learned Senior Government Advocate, Assam as well as Shri S. Dutta, learned Standing Counsel, P&RD.

2. This matter was taken up for consideration on 20.08.2025 when Shri Nath, the learned Senior Government Advocate was allowed time to obtain

instructions. It was also recorded that since the impugned notice of eviction had granted 15 days time, there was no requirement to pass any interim order.

3. The matter had accordingly come up for consideration on 26.08.2025 on which date, Shri Roy Choudhury, the learned counsel had submitted that though 15 days time was yet to be over as per the impugned notice dated 11.08.2025, the eviction activities had already started. On the other hand, Shri Nath, the learned State Counsel had submitted that the land in question is *panitol* land wherein the Hon'ble Supreme Court in the ***judgment dated 13.11.2024*** passed in ***WP(C)/295/2022 [In Re: Directions in the matter of demolition of structures]*** had itself given the clarification that no restrictions would be applicable. An affidavit was accordingly directed to be filed by the State based on the instructions and the matter was fixed today. It was further directed that to balance the equities, the *status quo* be maintained.

4. The affidavit has been filed by the respondent nos. 3 and 6 today which is on record.

5. Shri Roy Choudhury, the learned counsel for the petitioners has reiterated that the land in question is Government *khas* land and the procedure which is to be followed while issuing a notice under Rule 18 (2) has not been followed. He has also referred to the judgment of the Hon'ble Division Bench in the case of ***Salak Uddin vs. State of Assam & Ors.*** reported in ***(2024) 6 GLR 614*** and another judgment dated ***13.11.2024*** passed in ***WA/380/2022 [Arabinda Baishya and Ors. vs The State of Assam and Ors.]***.

6. On the other hand, Shri Nath, the learned State Counsel has reiterated that the land in question is *Panitol* land.

7. By drawing the attention of this Court to the affidavit-in-opposition filed

today wherein the Chitha of the relevant plot of land has been enclosed, the learned State Counsel has submitted that the plot of land under Dag No. 2 is *Panitol* and under the remarks column it is written '*bee*'. He has also highlighted the aspect that the land in question would be a part of a project of immense public importance and in fact the construction of the roads have already been completed more than a year back and only for pending litigations, the bridge has not been able to be constructed. He has also drawn the attention of this Court that the petitioners had earlier filed WP(C)/1129/2024 which was dismissed vide judgment and order dated 17.07.2025 by observing that the process of eviction is required to be carried out by following the due process of law.

8. Shri Roy Choudhury, the learned counsel has disputed the aforesaid proposition and has submitted that the copy of the Chitha enclosed is not certain regarding the 'class' of land. He has submitted that it cannot be said with certainty that the plot of land covered by Dag No. 2 is *Panitol* land as the endorsement is not clear.

9. The rival contentions have been duly considered.

10. The copy of the Chitha pertaining to the land in question including the vernacular has been enclosed to the affidavit-in-opposition filed today. The Addl. District Commissioner, Nagaon who is the deponent of the said affidavit has made the following statement in paragraph 3.

“3. That it is respectfully stated that the land that is encroached upon is covered by Govt. Dag No. 2 located at Beltoli Bazar falls under Laogaon Kissam (Revenue Village) of Kachamari Mouza is recorded as 'Panitol' in Chitha that can be termed as 'water body'.”

11. The said averment is supported by the copy of the Chitha which has been

carefully perused.

12. Though in the vernacular, against column no. 4, the endorsement is not very clear, it however appears from column no. 2 that '*Paa: Taa*' is clearly written which means *Panitol* land.

13. On the claim made by the petitioner regarding certain allotment made by the concerned Officer of the Department, Shri Dutta, the learned Standing Counsel, P&RD has submitted that so far as the license is concerned for trade, there is no mention of any specific location. He has also submitted that so far as the space for running the business as *veti* is concerned, the period of the said allotment has also spent its force.

14. This Court has also taken into consideration that the area in question is a part of a project of utmost public importance, namely, construction of a road which has already been done and only because of the present litigations, the bridge which joins the road on both the sides has not been able to be constructed. This Court while dismissing the earlier writ petition had made clear observations that private interest has to give way to overwhelming public interest.

15. In view of the aforesaid discussions, this Court is of the opinion that the present may not be a fit case for interference and accordingly the same is dismissed.

16. Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant