GAHC010227282026

2026:GAU-AS:15830

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

Case No. : WP(C)/5803/2026

ABDUL SATTAR
S/O HARAT ALI ALIAS HAJRAT ALI

2: NAYEB ALI
S/O MD. ALATAB ALI

3: AKASH ALI
C/O RAMJAN ALI

4: ABDULLAH FARUK
S/O ABDUL RAZAQUE

5: HABIBULLAH ISLAM
S/O ABDUL KADIR

6: HANIF ALI
S/O IMATAJ ALI ALIAS IMTAJ ALI

7: AMENA BEGUM
C/O KITAP

8: NUR AMIN ALIAS NUR AMIN ALI
S/O RAJAB ALI

9: IDUL HUSSAIN
S/O ABUL HUSSAIN

10: SADDAM ALI
S/O MORTOJ ALI

11: IDRICH ALI ALIAS IDDIS ALI
S/O HUSSAIN ALI

12: ABDUL SUBHAN

C/O IDRISH ALI ALIAS IDDIS ALI

13: SAHJAHAN ALI
C/O MORTOJ ALI ALIAS MURTUJ ALI

14: HAFIJUR RAHMAN
S/O MUSARAF HUSSAIN

15: SAPTAR ALI
S/O KACHEM ALI ALL THE ABOVE-NAMED PETITIONERS ARE RESIDENTS OF 9/6 KOILAMARI
P.O. AND P.S.- NORTH LAKHIMPUR
DISTRICT- LAKHIMPUR ASSAM
PIN NO-787051 AND 787031

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM, JANATA BHAWAN, DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
GOVERNMENT OF ASSAM
JANATA BHAWAN
DISPUR
GUWAHATI781006.

3:THE DISTRICT COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR
PO AND PS- NORTH LAKHIMPUR
DIST- LAKHIMPUR
PIN787001
ASSAM.

4:THE CIRCLE OFFICER
NORTH LAKHIMPUR REVENUE CIRCLE
LAKHIMPUR
ASSAM-787001

Advocate for the Petitioner : MR. Z KHALID, MS. A BEGUM,MR. M R HAZARIKA,MR. M H ALI

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

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT

15.10.2026

Heard Mr. M.H. Ali, learned counsel for the petitioners; Mr. S.S. Roy, learned Junior Government Advocate, Assam for the respondent nos. 1, 3 & 4; Mr. A. Bhattacharya, learned Standing Counsel, Revenue and Disaster Management Department, Government of Assam for the respondent no. 2.

2. The petitioners, fifteen in nos., have joined together to institute the present writ petition under Article 226 of the Constitution stating that they have a common cause of action. As regards the common cause of action, the petitioners have stated that they have been residing in various parcel of Government land at 9/6 Koilamari Revenue Village since long. The petitioners have approached this Court by the instant writ petition on being aggrieved by issuance of similar notices to them on 06.08.2026 by the respondent no. 4. Some of those notices are annexed to the writ petition as Annexure-1 series.

3. Mr. Ali, learned counsel appearing for the petitioners has referred to the contents of the notices in Assamese dated 06.08.2026 and their English translation to advance his submissions.

4. For ready reference, the contents of a notice dated 06.08.2026 are extracted hereinbelow :-

GOVERNMENT OF ASSAM

Office of the Circle Officer: North Lakhimpur Revenue Circle: Lakhimpur

No: NL.L.C/Eviction - 2026/1346 Date: 06/08/2026

xxxxxxx

xxxxxxx

NOTICE REGARDING EVICTION UNDER SETTLEMENT RULE 18(2) OF THE ASSAM LAND AND REVENUE REGULATION, 1886.

NOTICE

It is hereby informed to you that it has come to the notice of the undersigned that you have unlawfully occupied general Government land in 9/6 Koilamari Revenue Village under North Lakhimpur Revenue Circle.

In view of this, in accordance with Government Notice No. 18[2] under the Assam Land and Revenue Regulation, 1886, observing the directives of the Hon'ble Supreme Court of India in Civil Appellate Jurisdiction, Appeal no. 1132/2011, @ S.L.P. [C] no. 3109/2011 [Jagpal Singh and others vs. State of Punjab and others], Md. Salak Uddin vs. the State of Assam and two others on June 27, 2024, and Supreme Court Writ Petition [Civil] no. 295/2022, and as per the Revenue and Disaster Management Department Office Memorandum no. RLR-162/2008/25 dated 06.02.2010 and H.H. 188/2011/Pt./29 dated 15 June 2015, under the powers conferred upon the undersigned under Rule 18[2] and 18[3] of the Assam Land and Revenue Regulation, 1886, you are directed to submit any documents supporting your claim, details, and circumstances regarding any house, shop, building, or other construction erected by you on the said land to the Office of the Circle Officer, North Lakhimpur, within 15 [fifteen] days. A hearing regarding this matter will be conducted on 24.08.2026 at 11-00 a.m. If during the hearing you are proven to be an encroacher, you must remove or clear any house, shop, building, or any type of crop constructed or grown by you from the land at your own expense within 15 [fifteen] days, and vacate the land. Otherwise, eviction action will be carried out by the administration as per the rules. Furthermore, if you fail to appear at the office of the undersigned on the date

fixed for the hearing, the matter will be disposed of ex-parte based on the available records, and eviction orders will be issued against you without any further communication.

Consider this matter urgent.

Schedule of Land :
Revenue Village: 9/6 Koilamari
Mouza : Nakari
Dag No.: 444

5. From the notices, it transpires that the noticees were asked to appear in the office of the respondent no. 4 on 24.08.2026 to submit all documents in support of their respective claims qua their occupation over the areas of land in 9/6 Koilamari Revenue Village under North Lakhimpur Revenue Circle. The notices have made reference to Rule 18[2] and Rule 18[3] of the Settlement Rules, framed under the Assam Land and Revenue Regulation, 1886; the decisions of the Hon'ble Supreme Court in Civil Appeal no. 1132/2011 arising out of SLP[C] no. 3109/2011 [Jagpal Singh and others vs. State of Punjab and others, (2011) 11 SCC 396]; Civil Appeal no. 295/2022 [Abdul Khaleque and others vs. State of Assam and others]; and the Judgment and Order dated 27.06.2024 in W.P.[C] no. 1057/2022 [Md. Salak Uddin vs. the State of Assam and others], [2024] 4 GLT 857. The respondent no. 4 had asked the noticees to explain the circumstances under which the noticees had constructed houses, shops, buildings or other constructions in various land falling purportedly under 9/6 Koilamari Revenue Village under North Lakhimpur Revenue Circle within fifteen days from the date of issuance of the notice also on 24.08.2026.

6. In the notices, it is further mentioned that during the course of enquiry, if any of the noticees are found out to be an illegal encroacher, such noticee would be required to vacate from the area of land in respect of which he is found out to be an illegal encroacher and also, to remove all types of crops or structures at his own expense within a period of fifteen days from the date of hearing. Else, eviction process would be carried out as per law and the cost

incurred for the eviction would be recovered from such noticee. It has been informed that in the event a noticee would fail to appear at the office of the respondent no. 4 on the date scheduled for hearing, the matter would be decided ex-parte on the basis of existing records and there would be no further communication before an Order of eviction.

7. Mr. Ali, learned counsel appearing for the petitioners has submitted that the notice is silent about individual consideration of the claim of each of the noticees as regards his or her possession over an area of land under 9/6 Koilamari Revenue Village under North Lakhimpur Revenue Circle. He has submitted that the petitioners are in long, continuous and uninterrupted possession of different areas of land, small in sizes. The petitioners were earlier having lands and they had been rendered homeless and landless due to various reasons.

8. Mr. Roy and Mr. Bhattacharya have responded by submitting that the notices are as per the provisions of the Settlement Rules, framed under the Land and Revenue Regulations, 1886 and in deference of the procedure indicated in the decisions referred to in the notices.

9. Rule 18 of the Settlement Rules has mentioned about ejection. Sub-rule [2] of Rule 18 has provided that when such a person entered into possession of Government khas land, or Waste land or estate over which no person has acquired the rights of a proprietor, land-holder or settlement-holder or any land that has previously been reserved roads or roadside land or for the grazing of village cattle or for other public purposes, or has entered into possession of land from which he has been excluded by general or special orders and when further, there is no bonafide claim of right involved he may be ejected or ordered to vacate the land forthwith, and the Deputy Commissioner may sell, confiscate or destroy any crop raised, or any building or other construction erected without authority on the land. Sub-rule [3][a] of the Rule 18 has provided for ejectment in all other cases which do not fall under Rule 18[2]. Rule 18[3] [a] has prescribed for publication of a notice requiring the occupant to vacate the land specified in a notice, within fifteen days from the date of publication of the notice in the manner prescribed and to remove any buildings, houses, fences or crops, etc. which may have been raised on such land, provided that the Deputy Commissioner may give time to any particular occupant to harvest the crops, if any, growing on such land.

10. The law regarding common village land/community land like VGR, PGR has been well settled by the decision of the Hon'ble Supreme Court in **Jagpal Singh** [supra] and the same is not required to be adverted to. On consideration of the provisions of Rule 18, a Division Bench of this Court in **Salak Uddin** [supra] has drawn a conclusion that the revenue authorities cannot be permitted to unilaterally decide as to whether an occupier/possessor has a bonafide claim of right involved in as much as it would require adjudication of both law and facts and if an opportunity to the occupier/possessor is not provided, the same would be in violation of the principles of natural justice which, in turn, would violate Article 14, Article 19 and Article 21 of the Constitution. It has been observed that prior notice to the occupier/possessor before initiation of proceeding under Rule 18[2] of the Settlement Rules is the mandate of law in order to save Rule 18[2] of the Settlement Rules from being constitutionally invalid on procedural grounds.

11. This Court having regard to the provisions of the Settlement Rules and the observations made in **Salak Uddin** [supra] finds no infirmity in issuance of the notices dated 06.08.2026, is for as the aspects regarding serving prior notices and grant of opportunity to file representation and to afford personal hearing are concerned.

12. It is submitted by the learned counsel appearing for the petitioners that in response to the notices, the petitioners/noticees have already responded by submitting their individual replies along with all the supporting documents in respect of their claim, more particularly, about the permission granted to the petitioners or predecessors-in-interest of the petitioners to reside in the areas in question.

13. It is relevant to refer to a decision of the Hon'ble Supreme Court in **Abdul Khaleque and others vs. State of Assam and others, 2026 INSC 140**, which arose out of notices issued by an authority in the State Government to the appellants therein on the premise that the appellants were allegedly residing inside reserved forest areas. The Hon'ble Supreme Court did not find any infirmity in the process sought to be adopted by the State respondents for removal of encroachment, as the process is found to have conformed to the principles of

fairness, reasonable and due process. The process to be adopted in the case in hand is also to be similar, as like in **Abdul Khaleque** [supra], the noticees have been provided an opportunity to represent within a period of fifteen days, by the notices, dated 06.08.2026.

14. On the process sought to be adopted by the State respondents for removal of encroachment from reserved forest areas, placed before the Hon'ble Supreme Court, the State Government had undertaken that if an unauthorised occupation is found under the reserved area after scrutiny of the documents, a speaking order would be passed and shall be served on the concerned person, giving him fifteen days' notice to vacate the unauthorised occupation and only after expiry of the period of notice, the action shall be taken to remove the unauthorised occupants.

15. Taking note of the above observations of the Division Bench in **Salak Uddin** [supra] and the Hon'ble Supreme Court in **Abdul Khaleque** [supra], this Court is of the considered view that when a noticee is served with a notice alleging unauthorised occupation on his part of any plot of land, which falls in the categories of land mentioned in Rule 18 of the Settlement Rules, the noticee is to be given due opportunity of placing his case before the authority by way of a representation, if he chooses to do so, and thereafter, the authority is obligated to give due consideration to such representation submitted in response to the notice qua the claim made by the noticee, and to all the documents, if any, submitted along with the representation in support of his or her claim, regarding his or her occupation and right to be settled, on the concerned plot of land, and thereafter, to pass a speaking order as regards the status of the noticee qua the plot of land, stated to be allegedly under his or her unauthorized occupation.

16. As Mr. Ali, learned counsel appearing for the petitioners has submitted that the petitioners have already submitted their representations in response to the notices and a hearing has already been taken place, the responsibility is now cast upon the authority to dispose of each of the representations so submitted by passing a speaking order individually. It is accordingly ordered. The speaking order to be so passed is to be communicated to each of the petitioners immediately thereafter. It is only after determining the status of each of the

noticees in the afore-mentioned manner, further action contemplated under the law is to be taken.

17. With the observations made and the directions given above, the writ petition is disposed of. There is no order as to cost.

JUDGE

Comparing Assistant