

GAHC010147162026



2026:GAU-AS:10201

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

Case No. : WP(C)/3767/2026

MANIK ALI AND 73 ORS
S/O. KOIMUDDIN

2: ABDUL RAZZAK ALI
S/O. MANIK ALI

3: NAL MIAH
S/O. LATE AFAZ UDDIN

4: MOHIR ALI
S/O. ANSER ALI

5: BAHAR ALI
S/O. KATE AFAZ ALI

6: BAREK ALI
S/O. LATE RAIZ UDDIN

7: MD JAMAL ALI
S/O. LATE EDDISH ALI

8: MOHAMMAD NAWAB ALI
S/O. MOHIR UDDIN

9: MINARA BEGUM
S/O. MOINAL UDDIN

10: SURAT ALI
S/O. HAKIM ALI

11: AFJAN BEGUM
S/O. MINRAZ UDDIN

12: SABJAN KHATUN

W/O. BILLAL ALI

13: KASEM ALI
S/O. HATEM ALI

14: AJIS ALI
S/O. JOYNAL FAKIR

15: SALAM ALI
S/O. IDDIS ALI

16: KALAM ALI
S/O. EDDISH ALI

17: BILLAL ALI
S/O. AMIR UDDIN

18: SADEK ALI
S/O. MINAL HOQUE

19: KAMLA BEGUM
W/O. MINAL HOQUE

20: SUKUMUDDIN ALI
S/O. SAHEB ALI

21: SAYED ALI
S/O. LATE RAIZ UDDIN

22: BAHAR ALI
S/O. RAKHMAN ALI

23: KASEM ALI
S/O. KUTU MIYAH

24: LAL MIYA
S/O. JALAL UDDIN

25: JAHAR ALI
S/O. BAHAR ALI

26: MAZID ALI
S/O. AMIR ALI

27: ACHURUDDIN ALI
S/O. HANIF ALI

28: SAJIRAN BEGUM
W/O. JOYNAL ALI

29: HANIF ALI
S/O. JOYNAL FAKIR

30: SAMAD ALI
S/O. HAMED ALI

31: NURUL ALI
S/O. MANIK ALI

32: SAHERA BEGUM
W/O. UMAR ALI

33: JABBAR ALI
S/O. ABDUL GAFUR

34: MUSTABA ALI
S/O. JABBAR ALI

35: SUKUR ALI
S/O. SAHED ALI

36: RABIKUL RAHMAN
S/O. ABDUL ALI JUDDAR

37: MD MAJIBAR RAHMAN
S/O. ABDUL ALI JUDDAR

38: OMAR ALI
S/O. ABDUL ALI JUDDAR

39: SADEK ALI
S/O. NUR ISLAM

40: KAMAN ALI
S/O. IDDIS ALI

41: KALAM ALI
S/O. BASER ALI

42: SHAHJAHAN ALI
S/O. SAHED ALI

43: IDDIS ALI
S/O. UMESH UDDIN

44: HUSSAIN ALI
S/O. BISU MIYA

45: ABEDA BEGUM
W/O. ECHAK ALI

46: SAHOR ALI
S/O. SABER ALI

47: AMESH ALI
S/O. AMIR UDDIN

48: HAKAM ALI
S/O. KURFAN ALI

49: REJIA BEGUM
W/O. ADAM ALI

50: SHAHJAHAN ALI
S/O. RAHIM ALI

51: JELEKA KHATUN
D/O. HASEN DEWAN

52: SOMESH ALI
S/O. AJISH ALI

53: JAHURA KHATUN
D/O. MOKSHED ALI

54: NABUR ALI
S/O. AKALI MIAH

55: AYAN ALI
S/O. LATE MAJIBAR RAHMAN

56: MAYUR JAN NESSA
W/O. FULCHAND ALI

57: FALU MIYA
S/O. OSMAN GONI

58: LOKMAN ALI
S/O. ABDUL ALI JUDDAR

59: NOTU ALI
S/O. EYAD ALI

60: HALIM ALI
S/O. ABDUL ALI JUDDAR

61: MAKAM ALI
S/O. JOYNAL FAKIR

62: NABBE ALI
S/O. KUJRAT ALI

63: ALIBAR ALI
S/O. JUMAR ALI

64: TUTA MIYA
S/O. AFAZ UDDIN

65: SAHAR ALI
S/O. AFAZ UDDIN

66: MAHAR ALI
S/O. AFAZ UDDIN

67: JABED ALI
S/O. MAHIR UDDIN

68: MOHIR UDDIN
S/O. ROHIJ UDDIN

69: DEWAN MOTIUR RAHMAN
S/O. FAJLUR RAHMAN

70: ABDUL RAHIM
S/O. ASURUDDIN

71: SAHAR ALI
S/O. KURFAN ALI

72: SOHID ALI
S/O. BASER ALI

73: SUKUR ALI
S/O. HAKIM ALI

74: HASEM ALI
S/O. NAJUM UDDIN.
ALL ARE RESIDENTS OF VILLAGE 1 NO. BOGINADI AND 2 NO. BOGINADI
PGR
MOUZA KADAM
REVENUE CIRCLE KADAM
DISTRICT- LAKHIMPUR
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY, TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI 781006

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

3:THE DISTRICT COMMISSIONER
LAKHIMPUR

P.O. AND P.S. LAKHIMPUR
DISTRICT- LAKHIMPUR
ASSAM
PIN CODE 787001

4:THE CIRCLE OFFICER
KADAM REVENUE CIRCLE
LAKHIMPUR
DISTRICT LAKHIMPUR
ASSAM
PIN CODE 78700

Advocate for the Petitioner : MR. A R BHUYAN, MD. I HUSSAIN

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

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT

Date : 22.07.2026

Heard Mr. A.R. Bhuyan, learned Senior Counsel assisted by Ms. S. Laskar, learned counsel for the petitioners; Mr. H.K. Hazarika, learned Junior Government Advocate, Assam for the respondent nos. 1, 3 & 4; and Mr. A. Bhattacharyya, learned Standing Counsel, Revenue Department for the respondent no. 2.

2. Let notice be issued. As all the respondents are duly represented, the notice issued is made returnable forthwith, as agreed to by the learned counsel for the parties for taking up the writ petition for final consideration in view of the nature of issues involved.

3. The petitioners, 74 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 living in 1 No. Boginadi PGR Revenue Village and 2 No. Boginadi PGR Revenue Village since 1983 as they were victims of the disturbances of Assam Movement in 1983. In the disturbances, they were rendered homeless and landless. In support of such claim, the petitioners have annexed

a number of Certificates dated 14.02.1983 issued to some of the petitioners as Annexure-1 series to the writ petition wherein they were shown as people affected in the recent disturbances.

4. It is stated by the petitioners that on being allowed, they started living in 1 No. Boginadi PGR Revenue Village and 2 No. Boginadi PGR Revenue Village. Their names were duly enlisted in the Electoral Rolls since the year 1985. There were cremation ground, masjid, etc. in the locality, which were allowed to be constructed by the authorities. For the same, lands were allotted under Boginadi Agricultural Farming Corporation North Lakhimpur for the use of masjid and cremation ground for the interest of the inhabitants in the refugee camp. The petitioners have annexed the Voter ID Cards and the Land Holding Certificates of some of the petitioners as Annexure-2 series and Annexure-3 series respectively to the writ petition. According to the petitioners, they have been paying revenue in respect of the areas of land under their occupation and certificates were issued by the Mouzadar, Kadam Mouza regarding receipt of revenue from the petitioners and those receipts are annexed as Annexure-4 series to the writ petition.

5. It is the further case of the petitioners that Lower Primary Schools, Middle English Schools, Senior Secondary Schools, Anganwadi Centres, etc. were established within the areas of land under 1 No. Boginadi PGR Revenue Village and 2 No. Boginadi PGR Revenue Village. Electricity connections were also provided to the dwelling houses of the petitioners by the Assam Power Distribution Company Limited [APDCL] and benefits under the PMAY Schemes were also extended to the inhabitants of those two PGR Villages.

6. The petitioners have approached this Court by the instant writ petition on being aggrieved by issuance of similar notices to them on 18.06.2026 by the respondent no. 4. Some of those notices are annexed to the writ petition as Annexure-7 series.

7. Mr. Bhuyan, learned Senior Counsel appearing for the petitioners has referred to the English translated copies of the Notices in Assamese, all dated 16.06.2026, annexed as Annexure-7 to the writ petition to advance his submissions.

8. For ready reference, the contents of a Notice, dated 16.06.2026, are extracted hereinbelow :-

NOTICE

By this notice, you are informed that it has come to the attention of the undersigned that you are occupying and holding land in violation of rules under the name of 1 No. Boginadi P.G.R. and 2 No. Boginadi P.G.R. under Kadam Revenue Circle.

Therefore, in light of the Government Notification No. L-18[2], the Assam Land and Revenue Regulation [A.L.R.R. 1886], according to the Civil Appellate Jurisdiction of the Hon'ble Supreme Court of India, Civil Appeal No. 1132/2011, @ S.L.P. [C] No. 3101/2011 [Jagpal Singh and Others vs. State of Punjab and Others], Md. Salak Uddin vs. The State of Assam and 2 Others on 27 June 2024 order, Supreme Court Writ Petition [Civil] No. 295/2022 mentioned guidelines, and the Assam Government Notification No. RLR-162/2008/25 Dated 06/02/2010 and Revenue and Disaster Management Department Office Memorandum No. R.R. 188/2011/P.T./21, Dated 15th July 2015, and by the virtue of power vested upon the Revenue Officer under Section 18[2] and Section 18[3] of the Assam Land and Revenue Regulation, 1886, you are given 15 [fifteen] days from the date of issue of this notice to submit your claims, supporting documents, or evidence at the office of the Kadam Revenue Circle regarding the houses, shops, buildings, etc., built by you on the said land. A hearing on this matter will be conducted at the Circle Office on 30-06-2026 at 11-00 A.M.

If you are proven to be an illegal encroacher during the inquiry, you will have to vacate and remove all types of crops or structures at your own expense within 15 days from the date of the hearing and hand over the land free of encroachment. Otherwise, eviction proceedings will be carried out by the administration as per the law, and the cost incurred for the eviction will be recovered from you. Furthermore, if you fail to appear at the office of the undersigned on the scheduled date of the hearing, the matter will be resolved ex-parte based on the existing records, and an eviction order will be issued against you without any further communication. Consider this matter as urgent.

Schedule of Land :

[A] Kadam Village 1 No. and 2 No. Boginadi P.G.R. [Part of Boginadi Revenue Village]

9. From the notices, it transpires that the noticees were asked to appear in the office of the respondent no. 4 on 30.06.2026 to submit all the documents in support of their respective claims qua their occupation over areas of land in 1 No. Boginadi PGR Revenue Village and 2 No. Boginadi PGR Revenue Village. The notices have made reference to Rule 18[2] and Rule 18[3] of the Settlement Rules framed under the Assam Land and Revenue Regulations, 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]**, reported in [2011] 11 SCC 396; and **Civil Appeal no. 295/2022**. The notices have also referred to a decision of a Division Bench of this Court rendered in a Judgment and Order dated 27.06.2024 in **W.P.[C] no. 1057/2022 [Md. Salak Uddin vs. The State of Assam and others]**, reported in 2024 4 GLT 857.

10. After referring to the above decisions and Rule 18[2] & Rule 18[3] of the Settlement Rules, the respondent no. 4 have asked the noticees to explain the circumstances under which the noticees have constructed houses, shops, buildings, etc. in areas of land falling purportedly under 1 No. Boginadi PGR Revenue Village and 2 No. Boginadi PGR Revenue Village within a period of 15 days from the date of issuances of the notices and also, to appear at his office at 11-00 am on 13.06.2026 for hearing.

11. In a Notice, 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 15 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.

12. The learned counsel for the parties are at agreement that if 1 No. Boginadi PGR Revenue Village and 2 No. Boginadi PGR Revenue Village are already notified as Professional Grazing Reserve, then Rule 18[2] of the Settlement Rules would be applicable.

13. Mr. Bhuyan, learned Senior 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 1 No. Boginadi PGR Revenue Village and 2 No. Boginadi PGR Revenue Village. He has submitted that the petitioners are in long, continuous and uninterrupted possession of different areas of land, small in sizes, after they were allowed to reside in those plots of land by the respondent no. 3 in the backdrop that they were the victims of disturbances of the Assam Movement in 1983. The petitioners were earlier having lands and they had been rendered homeless and landless due to the disturbances in 1983. It was in view of such nature of homelessness and landlessness, the petitioners were allowed in terms of a decision of the authorities of the State to reside in the areas of land under those two PGR villages. He has submitted that the certificates issued to the petitioners [Annexure-1 series] did not disclose that the lands they were allowed to reside were reserved as PGR land.

14. Mr. Bhattacharyya and Mr. Hazarika 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.

15. 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.

16. 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.

17. 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 too.

18. 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 18[2] of the Settlement Rules from being constitutionally invalid on procedural grounds.

19. The Division Bench in **Salak Uddin** [supra] has proceeded to observe as under :-

63. We further find it very pertinent herein to observe that taking into account Rule 18 of the Settlement Rules which deals with all kinds of lands post 1997 Amendment, the bonafide claim of right involved may be different in all such cases. In the case of Government khas land or waste land, an occupant / possessor may have a bonafide claim

of right involved to claim settlement over the land on the basis of the Settlement Rules and extant Land Policy of the Government of Assam. In respect to other lands i.e. lands previously reserved for roads or roadside lands, or for grazing of village cattle or for other public purposes or the occupant had entered into possession of land from which he has been excluded by general or special order such lands are outside the purview of settlement. There is a complete bar in respect to granting settlements pertaining to lands reserved for roads or roadside lands or for grazing of village cattle. As regards land previously reserved for public purposes, it is outside the scheme of granting settlement. Under such circumstances, the question arises as to whether there is a requirement of issuance of any notice for adjudging as to whether there is a bonafide claim of right involved. In our opinion there might be various situations wherein there may be question of disputes pertaining to the boundary or there may be disputes pertaining to reservations or de-reservation for grazing of village cattle or for that matter, there may be a dispute that the persons who have been granted the settlement in respect of a land even prior to being previously reserved for public purposes. The above examples are illustrative and there might be varied circumstances depending on situational variations. Under such circumstances, issuance of a notice in the opinion of this Court to form the subjective satisfaction would be in consonance with the principles of natural justice and just fair, transparent procedure which are facets of Article 14, 19 and 21 of the Constitution.

20. This Court having regard to the observations made in **Salak Uddin** [supra], this court finds no infirmity in issuance of the notices dated 16.06.2026 is concerned.

21. It is submitted by the learned Senior 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 being persons affected in disturbances during Assam Movement in 1983.

22. 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.

23. 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.

24. 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 is reserved under any of the categories mentioned in Rule 18[2] 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 notice, and to all the documents, if any, submitted along with the representation in support of his claim, and thereafter, to pass a speaking order as regards the status of the noticee qua the plot of land, stated to be under his occupation.

25. As Mr. Bhuyan, learned Senior 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.

The speaking order so passed is to be communicated to each of the petitioners' representatives 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.

26. 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