

Gauhati High Court

Page No.# 1/12 vs The State Of Assam And 5 Ors on 1 November, 2022

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GAHC010196342022

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

Case No. : WP(C)/5784/2022

ROTON HOJAI AND 32 ORS
SON OF GILIDAO HOJAI

RESIDENT OF VILLAGE HARMUDISA

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

2: NOJEN DIBRAGEDE
SON OF LATE NAICHARON DIBRAGEDA

RESIDENT OF VILLAGE PRABDISA

P.O. AND P.S. - DIYUNGBRA

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

3: SOREN HAGJER
SON OF LATE PORSING HAGJER

RESIDENT OF VILLAGE GAJO

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

4: POJIT HOJAI
SON OF MAINODAO HOJAI

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RESIDENT OF VILLAGE GAJO

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

5: JOYBANON NUNISA
SON OF JORMOJOY NUNISA

RESIDENT OF DEHANGI TINIALI

P.O. AND P.S. DEHANGI

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

6: PARONJY NUNISA
SON OF JAYBAON NUNISA

RESIDENT OF DEHANGI TINIALI

P.O. AND P.S. DEHANGI

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

7: JOYMAL HOJAI
SON OF JOYPOLAL HOJAI

RESIDENT OF VILLAGE KOTA ARDHA

P.O. AND P.S.- DIYUNGMUKE

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

8: ANDEEP NAIDING
SON OF BINONDO

RESIDENT OF VILLAGE KOTA ARDHA

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P.O. AND P.S. DIYUNGMUKE

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

9: RANGTHOLAL NUNISA
SON OF PETNON NUNISA

RESIDENT OF VILLAGE- THAIJUPANG

P.O. AND P.S. - DEHANGI

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

10: PONILAL JIDUNG
SON OF PANDA JIDUNG

RESIDENT OF VILLAGE- THAIJUPANG

P.O. AND P.S. - DEHANGI

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

11: THANGLUDI KEMPRAI
SON OF LATE THANGCHRING HAFLONGBAR

RESIDENT OF VILLAGE KOTA ARDHA

P.O. AND P.S. DIYUNGAMUKH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

12: MOMILA PORBOSA
SON OF LATE BODENDRO KHERSA

RESIDENT OF VILLAGE KOTA ARDHA

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P.O. AND P.S. DIYUNGAMUKH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

13: MONO KUMAR LANGTHASA
SON OF LATE MAISIRON LANGTHASA

RESIDENT OF VILLAGE- LANGKULA

P.O. - NASINGULARI
P.S. DIYUNGMUKEH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

14: ANEN KEMPRAI
SON OF SRI KALADARE KEMPRAI

RESIDENT OF VILLAGE- P. KUNGKRUWARI

P.O. - NASHINGWARI
P.S. DIYUNGMUKEH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

15: PULALI THAOSEN
WIFE OF SANJIB GIRI

RESIDENT OF VILLAGE UPPAR THAIJUWARI

P.O. - AND P.S. DIYUNGMUKEH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

16: BIDESH THAOSEN
SON OF LATE SORONG THAOSEN

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RESIDENT OF VILLAGE THAIJUWARI

P.O. - NASHINGWARI
P.S. DIYUNGMUKEH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

17: SANTILAL THAOSEN
SON OF LATE NAISORN THAOSEN

RESIDENT OF VILLAGE- THAIJUWARI

P.O. - NASHINGWARI
P.S. DIYUNGAMUKH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

18: JIBON KEMPRAI
SON OF LATE HEMANTA KEMPRAI

RESIDENT OF VILLAGE KOTA ARDHA

P.O. AND P.S. DIYUNGAMUKH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

19: HAMDI HAFLONGBAR
SON OF BELHAM HAFLONGBAR

RESIDENT OF VILLAGE KOTA ARDHA

P.O. AND P.S. DIYUNGAMUKH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

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20: DEPOLAL NUNISA
SON OF LATE SAMONSING NUNISA

RESIDENT OF VILLAGE KOTA ARDHA

P.O. AND P.S. DIYUNGAMUKH

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

21: PAIMENDRA NAIDING
SON OF HAMNIN NAIDING

RESIDENT OF VILLAGE DELAISA

P.O. AND P.S. GUNGJUNG

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

22: DIMOSH SORONGPONG
SON OF MONON SORONGPON

RESIDENT OF VILLAGE- SURANGDISA

P.O. AND P.S. DEHANGI

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

23: RADATS NUNISA
SON OF DARMANON NUNISA

RESIDENT OF VILLAGE LANGMAISA DIKRING

P.O. AND P.S. DEHANGI

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

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24: MOKENDRO NUNISA
SON OF KOPENDRO NUNISA

RESIDENT OF VILLAGE- LANGMAISA DIKRING

P.O. AND P.S. DEHANGI

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

25: BROJENDRA NAIDING
SON OF LATE BAIDYANATH NAIDING

RESIDENT OF VILLAGE PRABDISA

P.O. AND P.S. DIYUNG Mukh

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

26: RENU JOHARI

SON OF DINENDA NAIDING

RESIDENT OF VILLAGE PRABDISA

P.O. AND P.S. DIYUNGMUKEH

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

27: GOJENDRA NAIDING

SON OF DINENDRA NAIDING

RESIDENT OF VILLAGE PRABDISA

P.O. AND P.S. DIYUNGMUKEH

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

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28: BIMAL JIDUNG

SON OF LATE RANJIT JIDUNG

RESIDENT OF VILLAGE PRABDISA

P.O. AND P.S. DIYUNGMUKEH

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

29: JOTESH JIDUNG

SON OF LATE NOYETH JIDUNG

RESIDENT OF VILLAGE LONGMAISA DIKRING

P.O. AND P.S. DEHANGI

DISTRICT- DIMA HASAO

ASSAM

PIN- 788819.

30: DIREN NAIDING
SON OF DINON NAIDING

RESIDENT OF VILLAGE LABRO

P.O. AND P.S. DIYUNG Mukh

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

31: PANDIT NAIDING
SON OF H. NAIDING

RESIDENT OF VILLAGE LANGKULA

P.O. AND P.S. DIYUNG Mukh

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

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32: ANIL NUNISA
SON OF LATE DONLAL NUNISA

RESIDENT OF VILLAGE LANGMAISA DIKRING

P.O. AND P.S. DEHANGI

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.

33: HARONGO HAFLONGBAR
SON OF B. HAFLONGBAR

RESIDENT OF VILLAGE RAILING NO. 1

P.O. AND P.S. DIYUNG Mukh

DISTRICT- DIMA HASAO

ASSAM
PIN- 788819.
VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM

(LR) DEPARTMENT
DISPUR
GUWAHATI- 781006.

2:THE PRINCIPAL SECRETARY
N.C. HILLS AUTONOMOUS COUNCIL

HAFLONG
DISTRICT- DIMA HASAO
PIN- 788819
ASSAM.

3:THE DEPUTY COMMISSIONER

DISTRICT- DIMA HASAO
HAFLONG
PIN- 788819
ASSAM.

4:THE SECRETARY AND REVENUE OFFICER (W)
NC HILLS AUTONOMOUS COUNCIL
HAFLONG
DISTRICT- DIMA HASAO

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PIN- 788819
ASSAM.
5:THE CHIEF ENGINEER
PUBLIC WORKS ROAD DEPARTMENT (EAP)
FATASIL AMBARI
GUWAHATI
DISTRICT- KAMRUP(M)
PIN- 781025.

6:THE EXECUTIVE ENGINEER
PUBLIC WORKS ROAD DEPARTMENT
HAFLONG
DISTRICT- DIMA HASAO
PIN- 788819
ASSAM.

Advocate for : MR. B BARUAH
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

01.11.2022 Heard Mr. B. Baruah, learned counsel for the petitioners and Mr. D. Nath, learned Senior Government Advocate for the respondents No. 1, 3 and 5, being the Secretary to the Government of Assam in the LR Department, the Deputy Commissioner, Dima Hasao and the Chief

Engineer, Public Works Road Department (EAP). Also heard Ms. J. Gogoi, learned counsel for the respondents No. 2, 4 and 6, being the authorities under the N.C. Hills Autonomous Council.

2. This writ petition is instituted in a circumstance that under the Asom Mala Road Project initiated also in the Dima Hasao district, the respondent authorities intend to construct a two lane highway from Haflong to Lanka Road under the aforesaid project and that the prospective highway would be passing through the villages of the petitioners. In paragraph 6 of the writ petition, a statement Page No.# 11/12 has been made that it came to the knowledge from the Executive Engineer, PWD Roads Division, Haflong, that the construction of the road would now begin from sometime in the first week of September, 2022. The petitioners are apprehensive that no process acceptable in law for acquiring the land has been initiated till date and the respondent authorities intend to start the work of construction of the road without formally taking over the land of the petitioners.

3. Without going into further details, considering the nature of the grievance raised, we direct the respondent No. 5, Chief Engineer, Public Works Road Department (EAP) and the respondent No. 6, Executive Engineer, Public Works Road Department, Haflong, to verify from their records as to whether the lands of the present petitioners would also be included in the construction of the proposed road from Haflong to Lanka Road under the Asom Mala Road Project. If the said two respondents arrive at a conclusion that the lands of the petitioners would also be included in the construction of the road, necessary steps be taken to move the Deputy Commissioner, Haflong or any other authority for a formal taking over and acquisition of the land by following the due procedure of law. The requirement to arrive at such conclusion as to whether the lands of the petitioners would be included in the aforesaid road project be done within a period of 1(one) month from the date of receipt of certified copy of this order and if the conclusion arrived at is that the land of the petitioners would be included, within a period of another 15(fifteen) days therefrom, the respondents No. 5 and 6 shall initiate the necessary process to move the Office of the Deputy Commissioner, Haflong or any other authority for a formal taking over and acquisition of the land concerned. If the conclusion arrived at is that the lands of the petitioners would not be included in the aforesaid road project, necessary order be passed and the petitioners be Page No.# 12/12 informed and in such event, under no circumstance the lands of the petitioners would be utilized for the construction of the road. On the other hand, if conclusion arrived at is that the lands of the petitioners would be included in the construction of the road, necessary steps as indicated above for a formal taking over and acquisition be done. We further provide that if the conclusion arrived at is that the land of the petitioners would be included and the formal steps for taking over and acquiring the land is not undertaken within the aforementioned period, there will be a restrain order on the respondents in the PWRD not to construct the road over the lands of the petitioners. The petitioners shall also cooperate with the Executive Engineer, PWRD, Haflong, in order to enable the said authorities to arrive at a conclusion as to whether the petitioners are owners of any such land which may be included in the road project. The aforesaid time limit is framed subject to the cooperation of the petitioners with the respondent authorities.

Writ petition stands disposed of as indicated above.

JUDGE Comparing Assistant