

GAHC010100952023



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

**Case No. : PIL/35/2023**

MUKLESUR RAHMAN FORAZI AND 10 ORS.  
S/O- ISHAQUE FORAZI,  
R/O- CHITADMARI BILL,  
P.O. AND P.S.- JURIA,  
DIST. NAGAON, ASSAM,  
PIN- 782124.

2: MAHENDRA SARMAH  
S/O- LATE NILA KANTA SARMAH

PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124.

3: PRODIP GHOSH  
S/O- HORI PADA GHOSH

PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124.

4: DIPAK GHOSH  
S/O- DIRANDRA GHOSH

PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124.

5: SARAT BORDOLOI  
S/O- LATE SUNESWAR BORDOLOI

PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124.

6: BUDHERE BORDOLOI  
S/O- LATE PUNARAM BORDOLOI

PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124.

7: AOKON BORDOLOI  
S/O- LATE PUNARAM BORDOLOI

PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124.

8: BRIJ MOHAN CHAUHAN  
S/O- LATE PUJAN CHAUHAN

PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124.

9: HANSRAJ CHAUHAN  
S/O- LATE MALILAL CHAUHAN

PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124.

10: DIGENDRA MONDAL  
S/O- SUNAILAL MONDAL  
PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124.

11: SUMKI SARKAR  
D/O- JOIRAM SARKAR

PERMANENT R/O VILL- SUTIRPAR

P.O. JURIA  
P.S.- JURIA

DIST. NAGAON  
ASSAM  
PIN- 782124

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REPRESENTED BY ITS CHIEF SECRETARY,

REVENUE AND DISASTER MANAGEMENT (SETTLEMENT BRANCH)  
DEPARTMENT,  
DISPUR, GUWAHATI- 781005.

2:THE JOINT SECRETARY OF REVENUE AND DISASTER MANAGEMENT  
(SETTLEMENT BRANCH) DEPARTMENT  
DISPUR  
GUWAHATI  
ASSAM

PIN- 781005.

3:THE DEPUTY COMMISSIONER  
NAGAON  
PIN- 782001.

4:THE CIRCLE OFFICER  
RUPAHI REVENUE CIRCLE OFFICE  
NAGAON  
ASSAM

PIN- 782125

**For Petitioner(s)** : Mr. S. Ahmed, Adv.

**For Respondent(s)** : Mr. D. Saikia, AG, Assam,  
Ms. R. Barua, Adv.  
Ms. N. Bordoloi, SC, Revenue (R-1, 2)  
Mr. R.K. Borah, Adv.(R-3, 4)

**BEFORE**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MRS. JUSTICE MITALI THAKURIA**

**ORDER**

**15.05.2023**

The petitioners herein have approached this Court through this petition under Article 226 of the Constitution of India, styling it to be a Public Interest Litigation (PIL) alleging inter alia that certain individuals have illegally encroached on a plot of

Government land admeasuring 2 bighas 5 kathas 8 lechas in the Sutirpur village of Nagaon district which was in possession of the Water Resource Department since the year 1955-56.

2. The petitioners have asserted in the writ petition that before approaching this Court, numerous complaints were filed to the concerned in relation to this illegal act of encroachment but without fetching any fruitful result. Thereupon, the petitioners have been compelled to approach this Court by way of this petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondent authorities to take appropriate action against the illegal occupants on Government lands and to demolish the structures raised thereupon.

3. Ex-facie, the petition herein involves multiple issues of facts the adjudication whereof would not be possible without proper evidence. This Court in PIL No.28/2018 directed the Chief Secretary, Government of Assam to devise a permanent mechanism to be operational in every district of the State to entertain and deal with such complaints pertaining to encroachments on Government lands. The relevant direction given by this Court in the said writ petition are reproduced hereinbelow for the sake of ready reference:-

"This Court is often called upon to entertain writ petition styled as Public Interest Litigation (PIL) from across the State with the allegations of encroachments over pasture land, catchment areas, ponds, rivers, lakes, public places, burial grounds etc. In all such petitions, it is a common factor that despite repeated complaints/representations to the concerned authorities, no steps are taken to remove the encroachments.

Thus, in order to provide a pan-Assam solution to this ever persisting problem, we hereby consider it appropriate to direct the Chief Secretary, Government of Assam to devise a permanent mechanism to be operational in every District of the State where the District Collector of the District would be required to periodically notify the general public to lodge the complaints/representations with regard to such encroachments to specially designated Public Land Protection Cell (for short, PLPC). The PLPC to be constituted only for looking after issues of rural areas, should be headed by the District Collector and shall function under his direction and supervision. Upon complaints/representations of this nature being received, the PLPC shall get such allegations made therein enquire into by deputing the

concerned Revenue Officers so as to verify the factum of encroachments having taken place. If the allegations are found to be substantiated, appropriate lawful steps for removal of the encroachments shall be taken against the trespassers. The complaints/representations received by the PLPC should be decided after objective consideration by passing a speaking order informing the respective complainant/representation maker about the action taken.

The learned Advocate General, Assam shall take up the matter with the concerned authority for establishing a similar grievance redressal mechanism in the Municipal areas as well.

This would obviate the necessity of the persons aggrieved approaching the Court directly by way of Public Interest Litigation.

Needless to say that action to be taken by the PLPC shall keep into account the plea of the alleged encroachers and would not take a one sided action.

The PLPC shall also keep in view the guidelines issued by the Hon'ble Supreme Court in *Jagpal Singh & Ors. Vs. State of Punjab & Ors.*, reported in *(2011)11 SCC 396.*"

4. Learned Advocate General, Assam, Mr. D. Saikia submits that by inadvertent error, the said order could not be communicated to the State Government authorities and thus, till date notification for constituting the Public Land Protection Cells has not been issued.
5. In this background, we hereby direct that copy of the aforesaid order dated 02.03.2023 passed in PIL No.28/2018 shall be provided to learned Advocate General Mr. Saikia forthwith, who shall instruct the State authorities to issue the requisite notification for formation of Public Land Protection Cells in each district and shall also be transmitted to the Chief Secretary, Government of Assam. Compliance report of the aforesaid direction shall be placed on record within next 7(seven) days.
6. Re-notify on 24.05.2023.

**Sd/- Mitali Thakuria**  
**JUDGE**

**Sd/- Sandeep Mehta**  
**CHIEF JUSTICE**

**Comparing Assistant**