

GAHC010147182023



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

**Case No. : PIL/53/2023**

KHANINDRA KALITA AND 8 ORS  
S/O LT UMESH CH KALITA, VILL- HUDUMPUR (KUKURIA), P.O. AND P.S.-  
PALASBARI, DIST- KAMRUP (ASSAM)

2: BIKASH NATH  
C/O PRAFULLA CHANDRA NATH  
VILL-BONGARA JALIMIPARA  
P.O.-BONGARA  
P.S.-PALASHBARI  
DIST-KAMRUP (ASSAM)

3: KAMAL TALUKDAR  
S/O LT. BANSHI TALUKDAR  
VILL- UPARHALI (OJHAPARA)  
P.O.-UPARHALI  
DIST- KAMRUP (ASSAM)

4: ACHYUT KALITA  
C/O LT. RAJEN KALITA  
VILL-BARKUCHI  
P.O.-MIRZA  
P.S.-PALASHBARI  
DIST-KAMRUP (ASSAM)

5: MANTU DAS  
S/O NAREN DAS  
VILL AND P.O.-SARAPARA  
P.S.-PALASBARI  
DIST-KAMRUP (ASSAM)

6: PRADIP BARUAH  
S/O KAMINI BARUAH  
VILL AND P.O.-BURAPARA  
DIST-KAMRUP (ASSAM)

7: RITUMONI CHOUDHURY  
C/O LT. BINOD CHOUDHURY  
VILL- KOKJHAR  
P.S.-PALASBARI  
P.O.-MIRZA  
DIST- KAMRUP (ASSAM)

8: SIRAKH DAS  
S/O LT HEMKANTA DAS  
VILL- BARJHAR  
P.O.-AGCHIA  
P.S.-AZARA  
DIST- KAMRUP (ASSAM)  
PIN-781128

9: MADHU MADHAB DAS  
S/O LT DHARANI DHAR DAS  
AMIN GAON  
DIST-KAMRUP (ASSAM)

VERSUS

THE STATE OF ASSAM AND 9 ORS  
REPRESENTED BY THE SECRETARY, REVENUE AND DISASTER  
MANAGEMENT DEPARTMENT, GOVT OF ASSAM, DISPUR, ASSAM  
SECRETARIES, P.O.-ASSAM SACHIVALAYA, GUWAHATI-781006

2:THE COMMISSIONER SECRETARY TO THE GOVT OF ASSAM  
REVENUE AND DISASTER MANAGEMENT DEPARTMENT  
GOVT OF ASSAM  
DISPUR  
ASSAM SECRETARIAT  
P.O. ASSAM SACHIVALAYA  
GUWAHATI-781006

3:THE COMMISSIONER SECRETARY TO THE GOVT OF ASSAM  
FOREST AND WILD LIFE  
GOVT OF ASSAM  
DISPUR  
ASSAM SECRETARIAT  
P.O.-ASSAM SACHIVALAYA  
GUWAHATI-781006

4:THE DEPUTY COMMISSIONER  
DIST-KAMRUP  
ASSAM

5:THE CIRCLE OFFICER  
PALASHBARI CIRCLE  
KAMRUP  
ASSAM

6:M/S CENT PLY  
A DIVISION OF CENTURY PLYBOARD (I) LTD  
MIRZA PALASBARI ROAD PALASHBARI  
GUWAHATI  
KAMRUP  
ASSAM  
781128

7:M/S ANNAPURNA GROUP HARVEST LAND BEVERAGES PVT LTD  
VILL-KOKJHAR  
MOUZA-CHAYANI  
PALASHBARI  
KAMRUP  
ASSAM  
781128  
REG  
OFFICE- ASHIRWAD BHAWAN  
KAMAKHYA COLONY  
BARA BAZAR  
PANDU  
GUWAHATI  
KAMRUP  
ASSAM  
781012  
INDIA

8:PANKAJ KUMAR JAIN  
S/O BABULAL JAIN  
BIJOY NAGAR (NEAR JAIN TEMPLE)  
JAIN TEMPLE ROAD  
BIJOYNAGAR  
ASSAM  
781122

9:A.R. INFRA PRIVATE LIMITED  
REG OFFICE AT SBBJ BUILDING  
THIRD FLOOR  
SRCB ROAD  
REPRESENTED BY DIRECTOR SRI AMIT AGARWAL  
S/O RAMAWTAR AGARWAL  
HOUSE NO. 19  
PRAKSH KINJ  
ARUNODOI PATH

KUMARPARA  
NARAYAN NAGAR  
KAMRUP (M)  
ASSAM

10:SOAR FOODS PRIVATE LIMITED  
REPRESENTED BY MRS. JYOTI BAJORIA  
W/O SRI SANJEEV KUMAR BAJORIA  
THE CORPORATE IDENTIFICATION NUMBER (CIN)  
U15549AS2020PTC019904  
THE REGISTERED OFFICE C/O SHREE MAHABIR FOODS LTD  
A-1001  
SPANISH GARDEN  
R.G.B. ROAD  
GUWAHATI  
KAMRUP  
ASSA

**Advocate for the Petitioner** : MR. S RAHMAN, MR. S HUSSAIN, MRS S GOSWAMI

**Advocate for the Respondent** : GA, ASSAM, MR B YADAV R-9, 10), MR A K RAI (R-(R-9, 10), MS RICHHA JHA (R-9, 10), MR S ISLAM (r-8), MR. A CHOUDHURY (r-8), MR P C GOSWAMI (r-8), MS. N UPADHYAY (R-6), MR. P DAS (R-6), MS. N BORDOLOI, SC, REVENUE DEPTT. (R- 1&2), SC, FOREST

**BEFORE**  
**HONOURABLE MR. JUSTICE SUMAN SHYAM**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**Date : 06.09.2024**  
(S. Shyam, J)

Heard Mrs. S. Goswami, learned counsel appearing for the PIL petitioners. We have also heard Ms. N. Bordoloi, learned Standing Counsel, Revenue Department, Govt. of Assam, appearing for the respondent Nos. 1 & 2, Mr. P. Das, learned counsel for respondent No. 6, Mr. A. Chaudhury, learned counsel for the respondent No. 8 and Mr. B. Yadav, learned counsel for the respondent Nos. 9 & 10. Mr. D. Gogoi, learned Standing Counsel, Forest Department is present on behalf of the respondent No.3.

Alleging that a few industrialists and real estate dealers acting in collusion and with the active connivance of government officials of the Revenue Department, have illegally blocked natural and man made water channels, filled up low lying agricultural land and wet land in the Southern Kamrup district thus creating artificial floods in that area, the present PIL has been filed. The basic grievance of the petitioners, numbering 9 in total, is to the effect that due to illegal constructions raised by the respondent Nos. 6 to 10, natural flow of drain water in the Palasbari area has been blocked as a result of which, whenever, there is rain in that area, the residents of Palasbari are subjected to massive water logging problem, thus, posing enormous difficulties in their day-to-day life.

According to Mrs. Goswami, despite representations submitted before the authorities from time to time, no effective step has been taken in the matter till date so as to redress the grievance of the local residents. The petitioners' counsel has, therefore, submitted that for carrying out a fact finding exercise, a Court appointed Commissioner should visit the area and submit a report.

Mr. P. Das, learned counsel appearing for the respondent No. 6, Mr. A. Chaudhury, learned counsel appearing for the respondent No. 8 and Mr. B. Yadav, learned counsel appearing for the respondent Nos. 9 & 10 have denied the allegations made against their clients. The learned counsel for the private respondents have, however, agreed to the suggestion of appointing an Advocate Commissioner for field verification and submission of report.

Mr. D. Gogoi, learned Standing Counsel for the Forest Department submits that his clients have no role to play in the matter.

Ms. N. Bordoloi, learned Standing Counsel for the Revenue Department

has submitted that the stand of the authorities are reflected in the counter-affidavit filed on their behalf.

After hearing the submissions of learned counsel for both the parties, we are of the considered opinion that a fact finding enquiry, at the ground level, is necessary for a just decision of the controversy involved in this case. As such, with the consent of the contesting parties, we hereby appoint Shri Anjan Kalita, an Advocate practicing in this Court, as Commissioner, so as to conduct a physical inspection/verification of the area and submit a report.

Registry to furnish all papers connected with this case to Shri Anjan Kalita, within a period of seven (07) days from today.

Upon receipt of such papers, Shri Anjan Kalita may visit the site and carry out necessary inspections, besides interacting with all the stakeholders including the petitioners, the private respondents and the departmental authorities with prior intimation and thereafter, submit a report. All concerned including the local administration and the police administration to render necessary co-operation to the learned Advocate Commissioner in discharge of his duties entrusted by this Court.

Respondent Nos. 6, 8, 9 and 10 are directed to pay an amount of Rs. 15,000/- each, to the Advocate Commissioner as remuneration for carrying out the inspection. Likewise, the nine writ petitioners shall also jointly pay an amount of Rs. 15,000/- in total to Mr. Kalita so as to partly cover the cost and his professional fees for carrying out the inspection. Both the parties are directed to deposit their respective amounts with the Advocate Commissioner within 7 (Seven) days from today.

Upon carrying out such inspection, Shri Kalita to submit a report before

this Court, in sealed cover, on the next date fixed.

Registry to list this matter again on 30.09.2024.

In the meantime, the respondent Nos. 9 & 10 are granted liberty to file their counter-affidavit.

**JUDGE**

**JUDGE**

**Comparing Assistant**