

GAHC010150752026



2026:GAU-AS:13348

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

Case No. : WP(C)/3875/2026

HAMIDA KHATUN
WIFE OF LATE MANSER ALI, VILLAGE ULUBARI BIRUBARI, DR.
AMBEDKAR NAGAR, MOUZA ULUBARI, P.S.- PALTAN BAZAR, DISTRICT
KAMRUP (M), ASSAM

2: FIROZA BEGUM
WIFE OF LATE MANSUB ALI
VILLAGE ULUBARI BIRUBARI
DR. AMBEDKAR NAGAR
MOUZA ULUBARI
P.S. PALTAN BAZAR
DISTRICT KAMRUP M
ASSAM

VERSUS

THE STATE OF ASSAM and others
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR,
GUWAHATI 781006

2:THE ASSAM POWER DISTRIBUTION COMPANY LIMITED APDCL
REPRESENTED BY THE MANAGING DIRECTOR
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI 781008.

3:THE DISTRICT COMMISSIONER
KAMRUP M
HENGABARI
GUWAHATI
ASSAM 781039.

4:THE SUB DIVISIONAL OFFICER SDO

APDCL
ULUBARI ELECTRIC SUB-DIVISION
GUWAHATI
KAMRUP M
ASSAM.

5:THE SUB NDIVISIONAL ENGINEER
APDCL
ULUBARI ELECTRIC SUB-DIVISION
GUWAHATI
KAMRUP M
ASSAM

6:THE CIRCLE OFFICER
GUWAHATI REVENUE CIRCLE

ULUBARI
DISTRICT KAMRUP M
ASSAM 781007

Advocate for the Petitioner : MR. SAYED SALIM AHMED, P. GHOSH,B DAS,MR. A M AHMED

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

Linked Case : WP(C)/3581/2026

HAMIDA KHATUN AND ANR
D/O LATE MANSER ALI
VILL- ULUBARI (BIRUBARI)
DR. B.R. AMBEDKAR NAGAR
MOUZA- ULUBARI
P.S. PALTAN BAZAR
DISTRICT- KAMRUP (M)
ASSAM

2: FIROZA BEGUM
VILL- ULUBARI (BIRUBARI)
DR. B.R. AMBEDKAR NAGAR
MOUZA- ULUBARI
P.S. PALTAN BAZAR
DISTRICT- KAMRUP M
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GUWAHATI-781006

2:THE DISTRICT COMMISSIONER
KAMRUP(M)
HENGRABARI
GUWAHATI-781039
ASSAM.

3:THE CO DISTRICT COMMISSIONER
NEW GUWAHATI CO-DISTRICT
HENGRABARI
GUWAHATI-781039
ASSAM.

4:THE SUB DIVISIONAL OFFICER (S)
I/C LAND SETTLEMENT BRANCH
KAMRUP METROPOLITAN BRANCH
HENGRABARI
GUWAHATI-781007.

5:THE CIRCLE OFFICER
GUWAHATI REVENUE CIRCLE
ULUBARI
DISTRICT- KAMRUP M
ASSAM
PIN-781007.

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. H. R. A. Choudhury, Sr. Advocate
: Mr. A. M. Ahmed, Advocate

For the Respondent(s) : Mr. R. Borpujari, Standing Counsel
: Mr. B. Das, Standing Counsel

- Date on which Judgment was reserved : **08.09.2026**
- Date of Pronouncement of Judgment : **11.09.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : Yes
- Whether the full Judgment has been Pronounced : No

JUDGMENT AND ORDER (CAV)

Heard Mr. H. R. A. Choudhury, the learned Senior counsel assisted by Mr. A. M. Ahmed, the learned counsel appearing on behalf of the Petitioners in both the writ petitions. I have also heard Mr. R. Borpujari, the learned Standing counsel of the Revenue Department who appears on behalf of all the Respondents in WP(C) No.3581/2026 and for the Respondent Nos. 1, 3 & 6 in WP(C) No.3875/2026. Mr. B. Das, the learned Standing counsel of the APDCL appearing on behalf of the Respondent Nos. 2, 4 and 5 in WP(C) No.3875/2026.

PREFACE:

2. Both the writ petitions are inter-connected and as such are taken up together for final disposal vide a common judgment and order.

3. In WPC No.3581/2026, the Petitioners have assailed the

Speaking Orders dated 12.06.2026 whereby the representations submitted by the Petitioners claiming that they have a bona fide claim of right involved for which the Petitioners should not be evicted from the land under their occupation was rejected and further, their proposal for settlement were also rejected.

4. The question which is involved in WP(C) No.3581/2026 is as to whether this Court should interfere with the Speaking Orders both dated 12.06.2026.

5. In WPC No.3875/2026, the Petitioners are aggrieved by the disconnection of the electricity supply to their houses on 05.06.2026 and therefore have sought for providing the electricity connection to the Petitioners. This Court is called upon to decide whether this Court should direct the Respondent Nos. 2, 4 and 5 to restore the electricity connection to the houses of the Petitioners.

BRIEF FACTS OF THE CASE AND THE PROCEEDINGS LEADING TO THE PRESENT JUDGMENT:

6. The Petitioner No.1 claims to be a resident of village No.2 Larkuchi, under Barkhetri Mouza in the District of Nalbari and the Petitioner No.2 was a resident of village Panditarpam, P.S. Hajo in the undivided Kamrup district in Assam. Both the Petitioners claim

that they are erosion affected and landless. Annexure-1 (series) to WP(C) No. 3581/2026 are certificates in that regard. It may not be out of place to mention that the Circle Officer, Barkhetri Revenue Circle, had issued a certificate to the Petitioner No.1 that she is an erosion affected and landless in the year 1996 as per the report obtained from the recorder of the Office of the Circle Officer, Barkhetri Revenue Circle. Insofar as the Petitioner No.2, a certificate had been issued by the Sarkari Gaonburah to the effect that the Petitioner No.2, due to river erosion, was residing at village Chorabari under Hajo Revenue Circle, Mouza Ramdia.

7. The record further reveals that both the Petitioners on 12.01.1992 purchased the possession of two individual plots of Government lands admeasuring 1 Katha 5 Lechas each covered by Dag No.12 on the basis of unregistered Deeds of Sale. The records further reveal that on 07.01.2020, certain notices were issued by the Circle Officer, Guwahati Revenue Circle, under Rule 18(2) of the Settlement Rules framed under the Assam Land and Revenue Regulation 1886, (for short 'the Regulation'). The Petitioners along with 18 others, filed a writ petition being WP(C) No.962/2020 challenging the notices issued dated 07.01.2020. The learned Coordinate Bench of this Court vide an order dated 28.05.2020 disposed of the said writ petition thereby directing the Petitioners

to submit a representation and also submit fresh application in the prescribed format claiming settlement under Clause 14.2 and 14.4 of the Assam Land Policy, 2019. It was further mentioned that till such reasoned order was not passed, the notices dated 07.01.2020 issued by the Circle Officer, Guwahati Revenue Circle against the Petitioners shall be kept in abeyance.

8. It further reveals that on the basis of applications submitted by the Petitioners claiming settlement over the lands under their occupation falling under Dag No.12(old)/97(new), proposals were submitted to the Revenue Department of the Government of Assam upon approval being granted by the State District Level Advisory Committee on 11.12.2020. While the proposals were pending before the Revenue Department of the Government of Assam, the Circle Officer of the Guwahati Revenue Circle issued another notice dated 10.11.2022 to both the Petitioners wherein it was alleged that the Petitioners were illegal encroacher on Government land covered by Dag No.97 of village Ulubari under Ulubari Mouza, which was recorded in the name of T.B. Hospital and the Petitioners were directed to vacate the said plot of land forthwith else eviction drive would be carried out. Similar notices were also issued to various other persons. Most of the persons who were residing in Dag No. 97 filed various writ proceedings before

this Court. Insofar as the Petitioners in the present proceedings are concerned, the Petitioner No.1 filed WP(C) No.7383/2022 and the Petitioner No.2 filed WP(C) No.7384/2022. All these writ petitions were disposed of vide a common judgment and order dated 07.11.2024.

9. In the said common judgment and order, this Court had duly taken note of that the Petitioner No.1 claimed to be in occupation of 2.88 Are of land by constructing an RCC building. Insofar as Petitioner No.2 was concerned, the said Petitioner was in occupation of 2.88 Ares of land by constructing a Tin Chali House. This Court vide the common judgment and order dated 07.11.2024 disposed of the said batch of writ petitions by passing certain observations and directions at Paragraph No.50 and the same being relevant are reproduced herein under:

“50. Accordingly, this Court therefore, disposes of the instant batch of these writ petitions with the following observations and directions:

(i) The impugned notices under Rule 18 so issued to the petitioners to vacate shall be construed as notices issued by the Circle Officer, Guwahati Revenue Circle, to show cause why the petitioners should not be evicted by taking recourse to Rule 18 of the Settlement Rules.

(ii) The petitioners in the present batch of writ petitions are given the liberty to submit individual replies and substantiating the same with

documents and such evidence as deemed proper thereby showing cause that the petitioners have a bona fide claim of right involved in respect to the land under their occupation and as such the recourse to Rule 18 of the Settlement Rules is not permissible.

(iii) The liberty given above is to be exercised within 30 (thirty) days, from the date of the instant order. In the said replies, the petitioners herein shall indicate in which writ petition, the petitioner(s) were parties.

(iv) The Deputy Commissioner, Kamrup (M) is directed to give an opportunity of hearing to the petitioners either personally or through their authorized representative(s). The Deputy Commissioner, Kamrup (M) shall thereupon pass appropriate speaking orders. The Deputy Commissioner, Kamrup (M) is further directed to allot a particular area in his office wherein, such replies could be submitted. A notice be hanged in the Office of the Deputy Commissioner, Kamrup (M) indicating the area.

(v) This Court further directs that upon the speaking orders being passed, the Deputy Commissioner, Kamrup (Metro) shall notify in its notice board about the fact that the speaking order had been passed. For a period of 30 (thirty) days from such notification, no coercive measures be taken so that if the petitioners are aggrieved, they may avail remedies as permissible under law."

10. From a perusal of the above quoted directions so passed in the judgment and order dated 07.11.2024, it appears that this Court observed that the notices which were issued to the various petitioners, including the present petitioners, under Rule 18 shall be construed to be issued notices issued by the Circle Officer,

Guwahati Revenue Circle, to show cause as to why the Petitioners should not be evicted by taking recourse to Rule 18 of the Settlement Rules. All the Petitioners, including the present Petitioners, were granted liberty to submit individual replies substantiating the same with documents and evidence as deemed proper, thereby showing cause that the Petitioners have a bona fide claim of right involved in respect to the land under their occupation and as such, recourse to Rule 18 of the Settlement Rules were not permissible. The said replies were required to be submitted by those Petitioners including the present Petitioners within a period of 30 days from the date of the order. This Court further directed the Deputy Commissioner, Kamrup (M) to give an opportunity of hearing to the Petitioners including the present Petitioners personally or through their authorized representative and thereupon to pass such speaking orders. Further to that, this Court made it clear that upon passing of the Speaking Orders, the same be notified in the notice board of the Office of the Deputy Commissioner, Kamrup (M) and for a period of 30 days from such notification, no coercive measures be taken so that if the Petitioners who were aggrieved may avail remedies as permissible under law.

11. Both the Petitioners thereupon submitted their replies on

06.12.2024 claiming that they have a bona fide claim of right involved. The Petitioner No.1 was called for hearing on 07.03.2025 and the Petitioner No.2 was called for hearing on 17.02.2025.

12. The records further reveal that the Petitioners thereupon filed a writ petition which was registered and number as WP(C) No.3167/2026 stating inter alia that even without passing any Speaking Orders pursuant to the Petitioners' representations submitted on 06.12.2024, the Respondents have affixed a notice in front of the plots of land with the caption "This property belongs to Pragjyotishpur Medical College and Hospital Authority. Trespassers will be prosecuted".

13. When the aforesaid writ petition was taken up on 16.06.2026, Mr. R. Borpujari, the learned Standing counsel of the Revenue Department intimated the learned Coordinate Bench of this Court that Speaking Orders have been passed on 12.06.2026 wherein the claim of the Petitioners for settlement were rejected.

14. Taking into account the above, the learned Coordinate Bench of this Court closed the writ petition vide an order dated 16.06.2026 reserving right to the Petitioners to assail the Speaking Orders dated 12.06.2026 before the appropriate forum as

permissible under law and further directed not to take any action for a period of 30 days from the date of the said order. It is under such circumstances the Petitioners have approached this Court by filing the present writ petition on 26.06.2026.

15. The learned Coordinate Bench of this Court vide an order dated 14.07.2026 issued notice and further made an observation that in terms of Paragraph No.64 of the common judgment and order of the learned Division Bench dated 27.11.2025 in the case of ***Monmil Boro and Others Vs. State of Assam and Others reported in 2025 SCC OnLine Gau 4901***, the case of the Petitioners should be considered.

16. The records further reveal that an affidavit-in-opposition was filed on 27.08.2026 by the District Commissioner, Kamrup (M) thereby defending the Speaking Orders dated 12.06.2026. It was mentioned in the said affidavit-in-opposition that the Petitioners are not entitled for settlement under the Assam Land Policy, 2019 and the approvals so given by the SDLAC in the meeting held on 11.12.2020 were cancelled. At Paragraph No.7 of the said affidavit-in-opposition, it was mentioned that the erstwhile T.B. Hospital located at Birubari in Guwahati has now been reconstructed and named as Pragjyotishpur Medical College and Hospital and the

same was inaugurated by the Union Home Minister in presence of the Chief Minister of Assam on 15.03.2026 and thereafter the said institution has been functioning regularly. It was further mentioned that the existing Gauhati Medical College and hospital has been substantially dismantled for the purpose of renovation and as such, presently the Pragjyotishpur Medical College and Hospital is catering to the requirement of large number of patients on daily basis who have now been shifted from Gauhati Medical College and Hospital to the newly constructed Pragjyotishpur Medical College and Hospital.

17. It is averred in the said affidavit-in-opposition that in view of the construction of the Gauhati Medical College and Hospital, for which work have already been awarded to M/S NCC Limited, the medical services to patients are now to be provided in the newly constructed Pragjyotishpur Medical College and Hospital. The patient load in Pragjyotishpur Medical College and Hospital is increasing day by day as would be evident from the patient figures i.e. 2267 patients in the month of April, 2026 and 3246 patients in the month of May, 2026. It is also mentioned that when the entire Gauhati Medical College and Hospital would be demolished, there would be further additional load of patients. At Paragraph No.10 of the said affidavit-in-opposition, it is mentioned that in order to

cater to the huge number of patients on daily basis, the Pragjyotishpur Medical College and Hospital also require the land reserved for it for the purpose of expansion and construction of new wings, for providing adequate parking space, etc. At Paragraph No.11, it was mentioned that the Petitioners are occupying plots of land which are reserved for the Pragjyotishpur Medical College and Hospital and their occupation have adversely affected the smooth functioning of the Pragjyotishpur Medical College and Hospital. It was contended that the private interest of the Petitioners has to yield to the overwhelming public interest.

18. In addition to that, it was also stated that the total area of Dag No.97 which is reserved for the Pragjyotishpur Medical College and Hospital is 34 Bighas 4 Kathas 12.37 Lechas and there is no question of granting settlement to the Petitioners on the said land.

19. In the backdrop of the above, this Court also finds it relevant to take note of the case of the Petitioners in WP(C) No.3875/2026 whereby the electricity connection to the Petitioners were disconnected by the Respondent Nos. 2, 4, and 5 on 05.06.2026 and therefore, the Petitioners sought a direction for restoration of the electricity connection.

**SUBMISSIONS MADE ON BEHALF OF THE LEARNED COUNSELS
APPEARING ON BEHALF OF THE PARTIES:**

20. Mr. H. R. A. Choudhury, the learned Senior counsel appearing on behalf of the Petitioners submitted that each of the Petitioners herein have purchased possession of 1 Katha 5 Lechas of land each pertaining to Dag No.12 in the year 1992, which would be apparent from the unregistered deeds of sale. Thereupon, the Petitioners have constructed dwelling houses over the said plot of lands. The Dag No.12 was renumbered as Dag No.97. Pursuant to the order passed by this Court dated 28.05.2020 in WP(C) No.962/2020, the Petitioners submitted applications for settlement and such settlement proposals were duly approved by the Sub-Divisional Land Advisory Committee in the meeting held on 11.12.2020. Thereupon, when the settlement proposals of the Petitioners were pending before the Revenue Department, notices were issued on 10.11.2022 to both the Petitioners. The Petitioners were again compelled to approach this Court by filing writ petitions being WP(C) No. 7383/2022 and WP(C) No.7384/2022. Vide a common judgment and order dated 07.11.2024, this Court directed the Petitioners to submit representations claiming their right to remain in possession of the Government land. All these aspects have not been taken into consideration while passing the Speaking

Orders. The learned Senior counsel submitted that the Speaking Orders have been passed perfunctorily without appreciating the factual aspects. The learned Senior counsel further submitted that though the Respondents claimed that Dag No.97 has been now reserved for the Second Medical College i.e. the Pragjyotishpur Medical College and Hospital, but there are instances which would show that in the year 2022, certain portions of Dag No.97 have already been settled with certain individuals.

21. The learned Senior counsel further submitted that the rejection of the Petitioners' proposals for settlement is also perverse on a wrong application of the Assam Land Policy, 2019, inasmuch as the same have been rejected without taking into consideration the parameters set out in Clause 14.2 of the Assam Land Policy, 2019. The learned Senior counsel further drawing the attention of this Court to the unregistered deeds of sale both dated 12.01.1992 and the payment of land revenue receipt as well as payment of property tax to the holdings assessed in the name of the Petitioners which are of the year 1993 and 1994 submitted that these documents were not at all taken into consideration while considering the proposals for settlement. He therefore submitted that this is a fit case wherein the Respondent Authorities should be again directed to reconsider the case of the Petitioners by setting

aside the Speaking Orders. In that regard, the learned Senior counsel also referred to the judgment passed by the learned Division Bench of this Court in the case of ***Monmil Boro (supra)***.

22. Per contra, Mr. R. Borpujari, the learned Standing counsel appearing on behalf of the Revenue Department as well as the District Administration defending the Speaking Orders submitted that similar to the Petitioners, there were various other Speaking Orders passed which were subject matter of challenge in a host of writ petitions. On account of those writ petitions being dismissed, various Writ Appeals were filed. The same were disposed of vide a common judgment and order dated 27.11.2025 in the case of ***Monmil Boro (supra)***. The land involved in the judgment in the case of ***Monmil Boro (supra)*** is the same land in the present proceedings. In the said judgment, the learned Division Bench had categorically held that the land in Dag No.97 which is a Government land was reserved for a hospital and by virtue of Rule 15 of the Settlement Rules, lands reserved for public purpose cannot be settled. The learned Division Bench further held in the said judgment that the Appellants therein cannot be settled with the land which they were occupying, either under Rule 16 of the Settlement Rules or in terms with Clause 14 of the Assam Land Policy, 2019, and therefore the Speaking Orders passed therein

were held to be with the authority and jurisdiction and therefore legal. It is only on the case of rehabilitation, the learned Division Bench had directed redetermination as would be apparent from Paragraph No.64 of the said judgment.

23. The learned Standing counsel further submitted that at Paragraph No.68, the learned Division Bench only directed a fresh determination on the aspect pertaining to rehabilitation. The said determination have since been carried out and in that regard, by filing a review petition, it was informed that the directions passed by the learned Division Bench was complied with. The review petition was dismissed as no review was sought for rather only information was provided and the same had no material bearing in respect to the judgment passed in ***Monmil Boro (supra)***.

24. The learned Standing counsel further submitted that in the instant case, in view of the decision of the learned Division Bench in ***Monmil Boro (supra)*** which have not been assailed and as on date stands implemented, the question of permitting the Petitioners to remain in occupation over the land in question does not arise inasmuch as the said land under no circumstances can be settled with the Petitioners. Further to that, the learned Standing counsel also submitted that as regards a reconsideration of the

settlement proposal, if the respective materials have not been taken into consideration, the same can be reconsidered for any other land. However, taking into consideration that there is an urgent need on account of the increasing number of patients in the Pragjyotishpur Medical College and Hospital, this Court may not like to interfere with the eviction process.

25. This Court has also heard the counsels on the issues involved in WP(C) No.3875/2026.

POINTS FOR DETERMINATION:

- (i) Whether the Petitioners have right to remain in occupation of the Government land covered by Dag No.97?
- (ii) Whether the Speaking Orders dated 12.06.2026 are required to be interfered with?
- (iii) What relief/reliefs the parties herein are entitled to?

ANALYSIS AND DETERMINATION:

FIRST POINT FOR DETERMINATION:

26. From the materials on record, it is seen that the Petitioners

claim to have purchased possession of 1 Katha 5 Lechas of land each from the erstwhile occupant vide unregistered deeds of sale. The said unregistered deeds of sale, under no circumstances, can confer any right upon the Petitioners in respect of the lands in question. However, the said unregistered sale deeds, upon being proved, can be used for collateral purposes to show the possession of the Petitioners over the land in question.

27. This Court duly takes note of Rule 15 of the Settlement Rules which being relevant is reproduced herein under:

“15. Settlement of occupied lands not included in any lease.- No person shall have any right to settlement merely because he is in occupation of land not included in any lease granted by the State Government either to himself or to any other person.”

28. A perusal of the above quoted Rule would show that no person shall have any right to settlement merely because he is in occupation of the land not included in any lease granted by the State Government either to himself or to any other person. In the instant case, neither any lease was granted to the Petitioners' vendors nor to the Petitioners and therefore by virtue of the express stipulation contained in Rule 15 of the Settlement Rules, the Petitioners do not have any right of settlement merely on the

ground of occupation of the land.

29. Rule 16 is also relevant and as such, the same is reproduced herein under:

“16. Prohibition to enter into land until issue of lease.- [Lease shall be issued on written application only, and no person shall enter into possession of waste land in any area until a lease has been issued to him or otherwise a written permission by Deputy Commissioner has been granted to him, pending issue of such lease, to enter into possession.”

30. The above quoted Rule creates a prohibition upon any person to enter into possession of the waste land until a lease has been issued or a written permission issued by the Deputy Commissioner. Admittedly, neither the Petitioners have any such lease nor written permission to occupy the land under their possession.

31. At this stage, this Court finds it very pertinent to take note of that the land in question under the occupation of the Petitioners was reserved for T.B. Hospital and presently for the Second Medical College i.e. the Pragjyotishpur Medical College and Hospital. Under such circumstances, the said land would not come within the ambit of “Waste Land” as defined in Rule 1(2)(b) of the Settlement Rules. The said land contained in Dag No.97 had already been disposed of by the Government by reserving it for the T.B. Hospital earlier

and now presently for the Pragjyotishpur Medical College and Hospital.

32. At this stage, this Court finds it very relevant to take note of the judgment of the learned Division Bench of this Court in the case of ***Md. Salak Uddin Vs. State of Assam and Others*** reported in ***2024 SCC OnLine Gau 921*** wherein this Court dealt with the bona fide claim of right involved and in what circumstance, a bona fide claim of right involved would arise. Paragraph No.63 of the said judgment being relevant is reproduced herein 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 bona fide 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 bona fide 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 bona fide 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 inconsonance with the principles of natural justice and just fair, transparent procedure which are facets of articles 14, 19 and 21 of the Constitution."

33. From a perusal of the above quoted paragraph, it would be apparent that in cases of lands previously reserved for roads or roadside lands, or for grazing of village cattle, or for any public purpose, or where the occupant had entered into possession of land from which the occupant had been excluded by general or special order, such lands are outside the purview of settlement. The learned Division Bench categorically observed that as regards land previously reserved for public purposes, it is outside the scheme of granting settlement.

34. This Court further finds it apposite to observe at this stage that till such time, any lease have been granted to the Petitioners in the form of settlement, the Government lands continue to remain with the Government. The approvals or recommendations do not confer any right till the lease is granted. Therefore, on the

ground that the Sub-Divisional Land Advisory Committee had granted approval for allotment of the land would not confer any right upon the Petitioners.

35. This Court further finds it relevant to take note of another important aspect which is the Assam Land Policy, 2019. Clause 14.3 of the Assam Land Policy, 2019 being relevant is reproduced herein under:

“14.3 *The State Government will not consider settlement of any Government land in Guwahati city or in other town areas under possession of individual or other persons merely on the ground that the person concerned is in occupation of such land irrespective of the period of such occupation or encroachment. It would be the policy of the State Government to consider settlement or to evict such persons as the case may be.”*

36. From a perusal of the above quoted Clause of the Assam Land Policy, 2019, it is apparent that merely on the ground that an individual is in possession of land, a right is not conferred upon that person to be granted settlement. This Clause has its roots from Rule 15 of the Settlement Rules already referred to hereinabove. This Clause was also dealt with by the learned Division Bench of this Court in the case of **Md. Salak Uddin (supra)**. Paragraph 43 of the said judgment being relevant is reproduced

herein under:

“43. The above quoted clauses of the Land Policy, 2019 would show that an indigenous person who has no homestead land in his name or in the name of his family in the State may be eligible to get land in Guwahati city or in the urban area, provided that such person is required to reside in Guwahati city or in that urban area by very nature of his occupation/service, provided further that he has sufficient ground to justify that he has not been able to purchase land in Guwahati city/other towns. Clause 14.3 stipulates that the State Government will not consider settlement of any Government land in Guwahati city or in other town areas under possession of individual or other persons merely on the ground that the person concerned is in occupation of such land irrespective of the period of such occupation or encroachment. It further provides that the State Government shall have a discretion to consider settlement or to evict such persons as the case may be. It is apposite herein to observe that though Clause 14.3 stipulates that merely because a person is in possession, he would not entitled to be considered for settlement but the said land policy does not put a bar that if the person is in illegal possession or is an encroacher upon Government lands, the occupant/possessor would not be entitled to settlement. On the other hand, the State Government retains a discretion to itself to either consider settlement or to evict a person as the case may be. This discretion however seems to be an absolute discretion unfettered by any guidelines or parameters which therefore in opinion invites the application of the principles of proportionality. Clause 14.4 is also very pertinent inasmuch as those persons who have been in continuous occupation of Government land since or prior to 28th June, 2001 may be considered for settlement of maximum of 1 (one) Katha 5 (five) Lessa of land in case of Guwahati and 1 (one) Katha 10 (ten) Lessa in case of other towns as one time measure for homestead purpose, if they apply for it, irrespective of having land in rural areas subject to realization of due premium. This Clause 14.4 grants a very valuable right to those indigenous landless persons who have been in

occupation of Government lands since or prior to 28.06.2001."

37. From a perusal of the above quoted paragraph, it is apparent that the learned Division Bench have categorically observed that the discretion so conferred upon the State Government to consider settlement or to evict such person as the case may be, though appears to be an unfettered discretion, but is always subject to the principles of proportionality.

38. Let this Court now test the steps taken for eviction of the Petitioners and as to whether it meets the principles of proportionality. In the instant case, it is apparent that steps for eviction of the Petitioners were taken on the ground that the land under their occupation which forms a part of Dag No.97 was already reserved for the T.B. Hospital and now recorded for the Second Medical College and hospital i.e. the Pragjyotishpur Medical College and Hospital. It is the opinion of this Court that the decision of the District Administration as well as the State Government that the land in question is required in the extant facts for the purpose of future expansion as well as for the logistical purposes of providing parking spaces on account of the ever increasing number of the patients in the Pragjyotishpur Medical College and Hospital meets the requirement to satisfy that the actions taken by the Respondents have a rational connection with

the object of future expansion and urgent need for logistical purpose of providing parking space for the patients.

39. This Court also finds it pertinent at this stage to take note of the observations of the learned Division Bench in the case of **Monmil Boro (supra)** which also relates to similar eviction proceedings pertaining to same Dag No.97. The difference only is that in the case of Appellants in **Monmil Boro (supra)**, their Speaking Orders were passed prior to the Speaking Orders assailed in the present writ petition. Paragraph Nos. 49, 53, 57 and 62 being relevant are reproduced herein under:

“49. To summarise, the appellant’s occupation is undisputedly over government land. The land is reserved for a Hospital, an essential purpose. Therefore, by virtue of Rule 15 of the Settlement Rules, which prohibits the settlement of land reserved for public purposes, such land cannot be settled.

53. Above that, when the appellants, except for appellants in WA No. 311/2025, themselves have admitted that the land they are occupying had already been reserved for TB Hospital/construction of Pragjyotishpur Medical college, in our opinion, they cannot have any bona fide right to claim for settlement over the land they are occupying and therefore, issuance of notice under Section 18(2) cannot be said to be without jurisdiction.

57. That being the position, in the considered opinion of this Court, the

appellants cannot be settled with land which they are occupying, either under Rule 16 of the Settlement Rules, or in terms of Clause 14 of the Land Policy, 2019 and therefore, this court neither can term the speaking orders passed by the Deputy Commissioner, Kamrup (M), nor the notices issued under Section 18(2) as illegal or without jurisdiction, however, the speaking orders passed by the deputy commissioner, though procedurally valid, does not reflect a comprehensive enquiry and determination of the requirements for the rehabilitation of the individual petitioners under clauses 14.3 and 14.4, nor does it indicate individual factums regarding whether the appellants are indeed landless, indigenous, and eligible for relocation benefits/settlement elsewhere.

62. *For the reasons recorded hereinabove, this Court therefore finds that while the eviction notices and reservation of land for a medical college are legally sustainable, the question of rehabilitation has not been duly and fully addressed."*

40. Accordingly, this Court therefore opines that both the Petitioners are liable to be evicted from the lands under their occupation covered by Dag No.97 as the Petitioners have no bona fide claim of right involved.

SECOND POINT FOR DETERMINATION:

41. The second point for determination is as to whether the Speaking Orders dated 12.06.2026 are required to be interfered with.

42. A perusal of the Speaking Orders shows that two aspects have been dealt with. First, that the Petitioners have no right to occupy the Government land in Dag No.97 and liable to be evicted in terms with Rule 18 of the Settlement Rules and secondly, that the Petitioners are not entitled to settlement of land. Insofar as the first aspect is concerned, this Court has already held while deciding the first point for determination that the Petitioners have no right to remain in occupation of the lands covered by Dag No.97 or for that matter, the Petitioners do not have any bona fide claim of right involved. Under such circumstances, there is no necessity for further deliberating on the said issue thereby opining that the first aspect dealt with in the Speaking Orders dated 12.06.2026 have been rightly decided and that the Petitioners are liable to be evicted from their occupation of the lands contained in Dag No. 97.

43. The second aspect pertains to as to whether the Speaking Orders dated 12.06.2026 rejecting the settlement proposal altogether is in accordance with the Settlement Rules as well as the Assam Land Policy, 2019. For the purpose of granting settlement of lands in Guwahati City or in urban area, the eligibility criteria have been set out in Clause 14.2 of the Assam Land Policy, 2019. The said clause being relevant is reproduced herein under:

“14.2. *An indigenous person who has not homestead land in his name or in the name of his family in the State may be eligible to get land in Guwahati city or in the urban area, provided that such person is required to reside in Guwahati city or in that urban area by very nature of his occupation/service, provided further that he has sufficient ground to justify that he has not been able to purchase land in Guwahati city/other towns.”*

44. A perusal of the above quoted Clause would show that the requisites to be eligible for settlement of land in Guwahati City or in urban area, are:

- (i) The person has to be an indigenous person;
- (ii) The person should not have homestead land in his name or in the name of his family in the State.
- (iii) The person is required to reside in Guwahati City or in that urban area by the very nature of his or her occupation/service; and
- (iv) The person has sufficient grounds to justify that the person has not been able to purchase land in Guwahati City/other towns.

45. At this stage, it is very pertinent to mention that to be eligible, there is no requirement that a person has to be in possession of any Government lands. This aspect is further clear from Clause 14.3 of the Assam Land Policy, 2019 as well as Rule 15 of the

Settlement Rules as already quoted herein above which categorically mentions that merely because a person is in possession of Government land, however long the occupation may be, he has no right to get settlement.

46. This Court now finds it relevant to take note of Clause 14.4 of the Assam Land Policy, 2019, which appears to be one of the grounds on which the Petitioners' applications for settlement were rejected. Clause 14.4 of the Assam Land Policy, 2019 reads as follows:

“14.4. However, in view of the Land Policy, 1989 and other Government decisions prior to adoption of this Land Policy, the cases of indigenous landless persons, if found eligible and who have been under continuous occupation of Government land since or prior to 28th June, 2001 may be considered for settlement of maximum of 1 (one) Katha 5 (five) Lessa of land in case of Guwahati and 1 (one) Katha 10 (ten) Lessa in case of other towns as one time measure for homestead purpose, if they apply for it, irrespective of having land in rural areas subject to realization of due premium.

Provided that persons having more than three and half bighas of land in rural areas will, however, be not entitled to the above benefit.”

47. A perusal of above quoted Clause 14.4 of the Assam Land Policy, 2019 would show that the said Clause creates an exception to Clause 14.2 of the Assam Land Policy, 2019 inasmuch as, a person who is in continuous occupation of Government land since

or prior to 28.06.2001, may be considered for settlement of a maximum of 1 Katha 5 Lechas of land in Guwahati and 1 Katha 10 Lechas of land in other towns, as one time measure for homestead purpose, if they apply for it, irrespective of having land in rural areas subject to realization of due premium. In other words, the eligibility criteria set out in Clause 14.2 of the Assam Land Policy, 2019, that a person should not have homestead land in his name or in the name of his family in the State, stands relaxed in the circumstance a person is in occupation of Government land since or prior to 28.06.2001.

48. In the backdrop of the above, if this Court now takes note of both the Speaking Orders dated 12.06.2026, which are similarly worded, one of the reasons why the applications for settlement were rejected was on the ground that the Petitioners could not produce any substantive document proving he/she had been residing or occupying the plot prior to 28.06.2001 which as per the Authority was a mandatory condition for grant of settlement in any urban area. In the opinion of this Court, the said aspect is completely misconceived on a conjoint reading of Clause 14.2, 14.3 and 14.4 of the Assam Land Policy, 2019.

49. It is therefore the opinion of this Court that though the

Petitioners in both the writ petitions cannot be granted settlement of any land within Dag No.97 wherein they are presently in occupation, the Petitioners can very well be considered for grant of settlement, if the Petitioners are eligible in terms with Clause 14.2 and 14.4 of the Assam Land Policy, 2019.

50. At the cost of repetition, this Court further reiterates that if the Petitioners are in a position to prove that they were in occupation of Government land since or prior to 28.06.2001, the eligibility criteria required that the Petitioners should not have homestead land in their name or in the name of their family in the State stands relaxed.

51. Therefore, it is the opinion of this Court that the impugned Speaking Orders dated 12.06.2026 are required to be partly interfered with to the extent as this Court would deal in the third point for determination.

THIRD POINT FOR DETERMINATION:

52. The third point for determination pertains to as to what relief or reliefs the parties herein are entitled to.

53. This Court finds it pertinent to take note of that in the case of

Monmil Boro (supra), the learned Division Bench categorically held that the steps so taken for eviction of the appellants in those proceedings do not call for any interference. The learned Division Bench also opined that the State as a model welfare entity, a fresh determination should be carried out as to whether the Appellants therein would be entitled to rehabilitation in some other land and in that regard, directed the State to reconsider the cases of the Appellants therein on the issue of rehabilitation within a period of 90 days. It further appears that in terms with the directions so passed in the case of ***Monmil Boro (supra)***, the State carried out the exercise and rejected the claims of those Appellants in ***Monmil Boro (supra)***, and thereupon filed an application seeking for review.

54. This Court has duly perused the order dated 04.06.2026 passed in Review Petition No.89/2026. A perusal of the said order so passed would show as to what the State of Assam sought for. It appears therefrom that the learned Division Bench was informed that in compliance of the judgment passed in ***Monmil Boro (supra)***, the exercise was completed and the claims of the Appellants in ***Monmil Boro (supra)*** were rejected insofar as rehabilitation was concerned. The learned Division Bench, therefore, rightly held that the said application could not have been a case of a review and accordingly held that no review of the judgment in the case of

Monmil Boro (supra), was required. The concluding paragraphs in the order dated 04.06.2026 in Review Petition No.89/2026 were merely observations without going into the merits of the Speaking Orders so passed by the State rejecting the rehabilitation claim of the Appellants in the case of ***Monmil Boro (supra)***. Under such circumstances, when the observation was made by the learned Division Bench to reconsider the claim of the Respondents in the review petition, who were the Appellants in the case of ***Monmil Boro (supra)***, the same has to be construed to be leaving it to the discretion of the State to reconsider if so sought for. The learned Division Bench only clarified that such reconsideration shall without affecting the rights of the State to evict.

55. It is very interesting at this stage also to observe that the judgment in the case of ***Monmil Boro (supra)*** do not direct or even address the question of settlement but specifically refers to rehabilitation which in other words means to rehabilitate the Appellants in some other lands. In that context, if the observations made in the penultimate paragraphs of the order dated 04.06.2026 in the Review Petition No.89/2026 are taken into consideration, the only reasonable conclusion that one can reach is the rehabilitation question of the Appellants in ***Monmil Boro (supra)*** was kept open.

56. During the course of the hearing, attention was drawn to the order dated 03.08.2026 passed by the Supreme Court in Special Leave to Appeal (C) No.23809/2026 wherein the Supreme Court vide the said order had issued notice and further stayed the order dated 04.06.2026 passed by the High Court in Review Petition No.89/2026. The question, therefore, arises as to whether the order dated 04.06.2026 passed in the Review Petition No.89/2026 or even the order dated 03.08.2026 passed by the Supreme Court would impact the decision in the present proceedings on the question of relief or reliefs to be granted to the parties more particularly in the context of the Speaking Orders dated 12.06.2026 assailed in the present proceedings.

57. The answer has to be in the negative inasmuch as the stay of the order dated 04.06.2026 passed in Review Petition No.89/2026 by the Supreme Court by the order dated 03.08.2026 would have no bearing upon the adjudication to the legality and validity of the Speaking Orders dated 12.06.2026 and passing appropriate writ direction and order. In addition to that, when an application for review was rejected, the judgment in the case of **Monmil Boro (supra)** would only hold the field and admittedly there is no challenge to the judgment passed in **Monmil Boro (supra)**.

58. At this stage, this Court finds it relevant to take note of the second writ petition which is WP(C) No.3875/2026, whereby the Petitioners have sought for the restoration of the electricity connection which was disconnected on 05.06.2026. The question arises as to whether the Petitioners should be entitled for restoration of the electricity. In the opinion of this Court, as the Petitioners do not have any bona fide claim of right involved to remain or continue to remain in occupation of the land contained in Dag No.97, the question of restoring the electricity to the Petitioners in the present facts and circumstances of the case cannot be permitted.

59. Accordingly, this Court, therefore, disposes of both the writ petitions with the following observations and directions:

- (i) The Petitioners do not have any bona fide claim of right involved in respect to the lands contained in Dag No.97, which is under their occupation.
- (ii) The Respondents herein can evict the Petitioners from the lands under their occupation contained in Dag No.97 in exercise of the powers under Rule 18 of the Settlement Rules.
- (iii) The impugned Speaking Orders dated 12.06.2026 insofar as

the eviction of the Petitioners are concerned from the land contained in Dag No.97 in exercise of the powers under Rule 18 of the Settlement Rules do not call for any interference.

- (iv) Settlement of Government land is not a matter of right. It is dependent upon the provisions of the Regulation, the Settlement Rules as well as the policy of the Government i.e. the Assam Land Policy, 2019. The Applicant seeking settlement has to satisfy the eligibility requirements set out in Clause 14.2 of the Assam Land Policy, 2019, for being considered for settlement within Guwahati city or in Urban Town.
- (v) Mere not fulfillment of the stipulations contained in Clause 14.4 of the Assam Land Policy, 2019 i.e. continuous occupation of Government land on or prior to 28.06.2001 would not disentitle an Applicant for settlement of land in Guwahati City or any Urban Town. However, if the Applicant satisfies the requirement of Clause 14.4 of the Assam Land Policy, 2019, the requirement to meet the eligibility requisite that there should be no homestead land of the Applicant or the Applicant's family in the State stands dispensed with.

- (vi) This Court interferes with the Speaking Orders dated 12.06.2026 only on the aspect of rejection of the Petitioners' applications seeking settlement. The said applications so submitted by the Petitioners be construed as applications submitted seeking settlement of land in Guwahati City. For the sake of clarity, this Court observes that the said directions shall not be confused as directions for settlement of land in Dag No.97, wherein the question of granting settlement to the Petitioners do not arise.
- (vii) The District Commissioner, Kamrup (M) as well as the Revenue Department of the Government of Assam are directed to reconsider the cases of the Petitioners for settlement of any waste land within Guwahati City subject to fulfilling the criteria as already observed hereinabove.
- (viii) This Court further directs the District Commissioner, Kamrup (M) as well as the Revenue Department of the Government Assam to reconsider the case of the Petitioners for settlement of any waste land in Guwahati City by taking into account the applications so submitted by the Petitioners which led to the approvals being granted by the Sub-Divisional Land Advisory Committee. The said approvals shall be considered as

approvals of the Sub-Divisional Land Advisory Committee for Waste Lands in Guwahati City other than Dag No.97.

- (ix) The Petitioners are granted further 15 days time from today to provide additional documents, if so advised, which would show that the Petitioners satisfy the requirements of Clause 14.2 and 14.4 of the Assam Land Policy, 2019.
- (x) It is observed that if the Petitioners satisfy Clause 14.4 of the Assam Land Policy, 2019, the eligibility requisite that there should not be any homestead land of the Petitioners or the Petitioners' family in the State stands dispensed with.
- (xi) Both the District Administration as well as the Revenue Department shall within 45 days from the date a certified copy of the instant judgment is served upon the District Commissioner, Kamrup (M) shall carry out the necessary compliance in terms with the directions passed herein above insofar as consideration of the settlement applications of the Petitioners.
- (xii) This Court further observes and directs that the above directions so passed is for consideration for settlement in any other waste lands in Guwahati City other than Dag No.97 and

the same shall not be construed by the Respondents as directions for rehabilitation of the Petitioners.

(xiii) This Court further taking into account that there is an urgent requirement for future expansion of the Pragjyotishpur Medical College and Hospital as well as for availability of parking spaces, grants the Petitioners an outer limit of 30 days from today to vacate the lands under their occupation contained in Dag No.97 and remove their belongings. Failing which, the Respondents herein shall be entitled to carry out the eviction drive thereby evicting the Petitioners from their occupation over the lands covered by Dag No.97.

(xiv) This Court in the foregoing clauses of this instant paragraph had categorically held that the Petitioners have no bona fide claim of right involved to remain in occupation of land in Dag No.97. This Court also upheld the Speaking Orders dated 12.06.2026 insofar as the exercise of the powers under Rule 18 of the Settlement Rules. The period of 30 days granted hereinabove to the Petitioners is only for the purpose of providing adequate time for the Petitioners to vacate the land in Dag No.97 along with their belongings. Under such circumstances, this Court is not inclined to issue any writ,

direction or order upon the Assam Public Distribution Company Ltd. (APDCL) to restore the electricity to the houses of the Petitioners.

(xv) There shall be no order as to costs.

JUDGE

Comparing Assistant