

GAHC010009232014



2026:GAU-AS:10474

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

Case No. : WP(C)/2352/2014

SMT. CRISCEDA RUTH RAPOZA and 2 ORS.
D/O LT. VIDA BRUMBACH NICHOLS ROY, R/O MOTINAGAR, SHILLONG
EAST KHASI HILLS DISTRICT, MEGHALAYA AND PRESENTLY RESIDING
IN THE UNITED STATES OF AMERICA

2: SMT. CHARLENE KLEINMAN AND
D/O LT. VIDA BRUMBACH NICHOLS ROY
R/O MOTINAGAR
SHILLONG EAST KHASI HILLS DISTRICT
MEGHALAYA AND PRESENTLY RESIDING IN THE UNITED STATES OF
AMERICA

3: SMT. CELESTE ALLENE KIRK
D/O LT. VIDA BRUMBACH NICHOLS ROY
R/O MOTINAGAR
SHILLONG EAST KHASI HILLS DISTRICT
MEGHALAYA AND PRESENTLY RESIDING IN THE UNITED STATES OF
AMERICA

VERSUS

THE UNION OF INDIA and 4 ORS
HOME DEPARTMENT, REP. BY THE SECRETARY

2: THE GROUP CENTRE
C.R.P.F.
GUWAHATI
ASSAM REP. BY THE DIGP
CRPF
GUWAHATI
VILL- NINETH MILE
SONAPUR P.S. KHETRI
KAMRUP
ASSAM

781023.

3:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
LAND AND REVENUE DEPARTMENT
DISPUR
GUWAHATI-6
ASSAM.

4:THE DEPUTY COMMISSIONER

KAMRUP M
GUWAHATI
ASSAM.

5:THE CIRCLE OFFICER

SONAPUR CIRCLE OFFICER
SONAPUR
KAMRUP M
ASSAM

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. A. Das, Advocate
For the Respondent(s) : Ms. A. Gayan, CGC
: Ms. G. Hazarika, Standing Counsel
: Mr. J. Handique, Jr. GA, Assam

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **28.07.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : Yes
- Whether the full Judgment has been Pronounced : N/A

JUDGMENT AND ORDER (ORAL)

Heard Mr. A. Das, the learned counsel appearing on behalf of the Petitioners and Ms. A. Gayan, the learned CGC appearing on behalf of the Respondent Nos. 1 and 2. I have also heard Ms. G. Hazarika, the learned standing counsel appearing on behalf of the Respondent No.3 and Mr. J. Handique, the learned Junior Government Advocate appearing on behalf of the Respondent Nos. 4 and 5.

PREFACE:

2. The present writ petition has been filed by the Petitioners espousing their Constitutional rights under Article 300A of the Constitution inasmuch as it is the case of the Petitioners that the Respondent No.2 has been in illegal and unauthorized occupation of the Petitioners' land and therefore sought for directions that the possession of the said land be handed over to the Petitioners and also pay due compensation on account of the use of the Petitioners' land since the year 1975. The Petitioners alternatively have also prayed that in lieu of the land to be handed over, the Respondent Nos. 1 and 2 may acquire the land of the Petitioners by paying due compensation as per law.

BRIEF FACTS OF THE CASE:

3. The Petitioners herein are the daughters of Late Vida Brumbach (Nee Nichols Roy/Vida Nichols Roy). The Petitioners jointly inherited 50 Bighas of land comprised in Dag Nos.5, 44, 45, 46, 49, 50, 51, 55, 56, 58, 79, 80/145, 83, 85 and 86 of Patta No.31 situated at village Sarutari under Mouza Sonapur in the District of Kamrup (M) Assam.

4. It is the case of the Petitioners that the land measuring 5 Bighas 0 Katha 4 Lechas covered by Dag No.5/49 along with other probable Dags of Patta No.31 has been in forceful occupation of the Respondent No.2 since 1975 wherein the Respondent No.2 have constructed their Water Pump House for facilitating supply of water to the Group Center, CRPF. It is the further case of the Petitioners that their Attorney approached before the Respondent No.2 on various occasions to vacate the aforesaid land and hand over the peaceful vacant possession however the Respondent No.2 has turned their deaf ear to the request made by the Attorney of the Petitioners. Resultantly, the Petitioners had issued a legal notice dated 27.12.2004 to the Respondent No.2 with a request for immediate vacation and handing over the peaceful vacant possession of the land in question to the Petitioners or to initiate

acquisition proceedings for payment of the appropriate compensation to the Petitioners in accordance with law.

5. The Respondent No.2 had replied to the notice of the Petitioners vide a letter dated 10.01.2005 welcoming the Petitioners to discuss the aforesaid matter with valid documents. However, no discussion was carried out with the Attorney of the Petitioners. The Petitioners therefore submitted a representation before the Deputy Commissioner, Kamrup (Metro) on 16.05.2012. Pursuant to the said representation so submitted, the Deputy Commissioner, Kamrup (M) issued a letter dated 21.06.2012 to the Circle Officer, Sonapur Revenue Circle to conduct a joint verification of the land in question on 28.06.2012, which is under the possession of the Respondent No.2 and submit a report. The Respondent No.5 conducted a spot verification on 01.09.2012 and found that the Respondent No.2 had been occupying an area of 5 Bighas 0 Katha 4 Lechas under Dag No.5/49 of Patta No.31 of the Petitioners for Water Pump House and accordingly, vide letter dated 07.09.2012 issued to the Respondent No.2 to appear and submit necessary documents pertaining to the aforesaid land in question on or before 15.09.2012. On 15.09.2012, the Respondent No.2 took time to produce necessary documents.

6. It was only on 08.11.2012, the Respondent No.2 submitted one document i.e. the certificate of land handover to the parties issued by the Sadar Kanungoe (Revenue), Sonapur Revenue Circle to the Dy. S.P. Group Center, CRPF. The said document had been enclosed Annexure-VIII to the writ petition.

7. A perusal of the said document clearly shows that the land admeasuring 14 Bighas 1 Katha 5 Lechas were handed over pursuant to acquisition being carried out and out of which, 10 Bighas 1 Katha 12 Lechas were private lands which have been acquired and the remaining lands i.e. 1 Bigha 2 Kathas 3 Lechas and 2 Bighas 2 Kathas were Government lands.

8. The records further reveal that the Respondent No.5 thereupon submitted an Enquiry Report on 21.11.2012 wherein it is categorically mentioned that though the Respondent No.2 had claimed that the land was handed over on the basis of certain acquisition, but as per the revenue records available in the office, there is no record of any order of acquisition or compensation of the said land used as Water Pump House/station by the CRPF situated at village Sarutari initiated or paid to the original patta holders i.e. (i) Charline Nichola Roy, (ii) Cresada Nichola Roy and (iii) Chelist Nichola Roy.

9. The records further reveal that on 15.10.2012, a communication was issued by the DIGP, GC, CRPF, Guwahati to the Deputy Commissioner, Kamrup (M) wherein it was intimated that 14 Bighas 1 Katha 5 Lechas of land were acquired under acquisition order No. KARACHI 6-15/74, dated 31.03.1975 for the purpose of Group Centre, CRPF at Khanapara. But unfortunately, the said acquisition order and Patta is not available in their record. The Deputy Commissioner, Kamrup (M) was therefore requested to provide the acquisition order and patta.

10. Various joint verifications were carried out and the Respondent No.2 could not produce any document of acquisition. In spite of that, the Respondent No.2 did not vacate the land and it is under such circumstances, the Petitioners had approached this Court by filing the present writ petition.

11. The records reveal that this Court vide an order dated 09.05.2014, issued notice.

12. The Respondent Nos. 1 and 2 have jointly filed an affidavit-in-opposition wherein they raised the issue as regards the maintainability of the writ petition on the ground of availability of the statutory remedies. It was the case set up by the Respondent

Nos. 1 and 2 in their affidavit-in-position that 14 Bighas 1 Katha 5 Lechas of land was handed over after having been acquired under acquisition Order No. KARACHI 6-15/74 dated 31.03.1975 for the purpose of setting up of the Group Centre CRPF, Guwahati on 24.04.1975. Since then, the land is under the possession and occupation of the CRPF. It was further mentioned that documents pertaining to the acquisition proceedings were not available with the Respondent Nos. 1 and 2 for which various requests have been made to the Deputy Commissioner, Kamrup. In addition to that, on the basis of the Certificate of Possession, the Respondent Nos. 1 and 2, claimed rights over the land. They have also set up a plea of adverse possession on the ground that they have been physically, continuously, overtly and hostilely in possession over the lands.

13. The records reveal that an affidavit-in-opposition was filed by the Respondent No.4 on 12.01.2016 wherein it was categorically mentioned that no document could be traced out as regards the acquisition of 14 Bighas 1 Katha 5 Lechas of land. The Petitioners have also filed an affidavit-in-reply.

14. This Court finds it now necessary to take note of the various orders which have been passed by this Court since 24.09.2024.

The learned Coordinate Bench vide the order dated 24.09.2024 had observed that in view of the stand so taken by the Petitioners along with the State Respondents, the only option that may lie with this Court was subject to any further material that may be produced by the Respondent No.2, to either direct the Respondent No.2 to acquire the land and pay the rental compensation since the date of their possession. The learned counsel for the Respondent Nos. 1 and 2 took time for filing a reply.

15. On 17.12.2024, when the writ petition was taken up, which is almost after 10 years from the date of filing of the writ petition, an additional chance was provided to the Respondents to produce any document to show that the land of the Petitioners in Dag Nos. 5 & 49 of Patta No.31 admeasuring 5 Bighas 0 Katha 4 Lechas have been acquired or taken over by following the due process. Nothing in that regard could be produced by the Respondent Authorities.

16. This Court finds it relevant to take note of the order dated 21.08.2025, when a report of the Circle Officer, Sonapur Revenue Circle was placed. This Court observed upon perusing the report that it was clear that the land in respect of which the Petitioners herein instituted the proceedings initially admeasured 6 Bighas 1 Katha 8 Lechas was covered by Dag No.5 prior to its division which

is under the occupation of the CRPF Authority. It was further mentioned in the said report along with the map enclosed as Annexure-V that the original Dag No.5 had 14 Bighas 1 Katha 7 Lechas. The said Dag No.5 was thereupon partitioned into various Dags of which Dag No.49 was created admeasuring 3 Bighas 2 Kathas 9 Lechas and the remaining area in Dag No.5 is 1 Bigha 2 Kathas 15 Lechas was under the occupation of CRPF. This Court upon perusing the report granted an opportunity to the Respondent No.2 to take a decision as to whether they would like to retain the land admeasuring 5 Bighas 0 Katha 4 Lechas which belongs to the Petitioners and under the occupation of the Respondent No.2 by carrying out acquisition in accordance with law or they would like to handover the possession of the land back to the Petitioners.

17. On 23.10.2025, Ms. A. Gayan, the learned CGC submitted that pursuant to the demarcation proceedings, the Respondent No.2 was aware of the fact that the Respondent No.2 was in occupation of the land belonging to the Petitioners. However, on account of ascertaining how much land the Respondent No.2 would like to keep by acquiring and how much land the Respondent No.2 would like to forego, they have contacted the concerned Circle Officer and the Circle Officer had given time on 07.11.2025.

18. The record reveals that an affidavit thereupon was filed by the Respondent No.2 wherein the Respondent No.2 have duly admitted that the part of Dag No.5 as it originally stood is under their possession and therefore, they have written a letter to the concerned Circle Officer to indicate the said portion specifically so that they can take a decision which part of the land they would like to relinquish and which part of the land they would like to retain by acquisition. This aspect was duly noted in the order dated 04.11.2025. On 11.12.2025, this Court passed certain directions which being relevant are reproduced herein under:

- “(i) *The respondent CRPF Authorities are given time till 05.01.2026 for submitting an application before the Circle Officer, Sonapur Revenue Circle for measurement of the land which they wish to retain under their possession.*
- (ii) The Circle Officer, Sonapur Revenue Circle shall upon such application being filed forthwith appoint a Mandal as well as other Revenue Staff for carrying out the measurement of the land which the CRPF Authorities seeks to retain.*
- (iii) Such measurement be carried out within 15 (fifteen) days from the date of submission of the said application.*
- (iv) At the time of carrying out the measurement, the Circle Officer, Sonapur Revenue Circle shall also demarcate how much of the land under possession of the CRPF Authorities which they propose to retain falls*

within the Dag No. 5 (which existed prior to bifurcations into various Dags, as per the old revenue map).

(v) On the basis of such demarcation being carried out, a report be submitted before this Court as to how much area which the CRPF Authorities seeks to retain falls within the Dag No. 5 as it originally stood prior to bifurcations.

(vi) The said report be submitted by 02.03.2026."

19. On 12.03.2026, when the matter was taken up, certain discrepancies were pointed out in the map which was produced by the Circle Officer earlier. This Court directed the Circle Officer, Sonapur Revenue Circle to provide instructions insofar as the discrepancies. The said discrepancies were corrected and a clear picture was placed before this Court which is duly recorded in the order dated 02.04.2026. On the same day, Ms. A. Gayan, the learned CGC submitted that the proposal would be sent to the Director General of the CRPF for according the necessary sanction pertaining to the land which the CRPF would like to retain by carrying out the necessary acquisition as well as the portion of land which the CRPF would like to give up.

20. Thereupon, the writ petition had been listed on 21.05.2026 and 09.06.2026. On 09.06.2026, the learned CGC apprised this

Court that the question as regards acquisition was pending before the Director General of CRPF and further, the Ministry of Home Affairs has also to be taken into consideration. This Court fixed the matter today with a categorical observation that if progress is not made on the aspect of acquisition, this Court shall take up the instant proceedings for final disposal.

21. Today, when the matter was taken up, Ms. A. Gayan, the learned CGC submitted that the Respondent Nos. 1 and 2 are not inclined to acquire the land and they would contest the claim of the Petitioner in the instant proceedings.

22. In view of the said submission, this Court had therefore taken up the present writ proceedings for final disposal.

SUBMISSIONS MADE BY THE LEARNED COUNSELS FOR THE PARTIES:

23. Mr. A. Das, the learned counsel appearing on behalf of the Petitioners submitted that the materials on record clearly show that it is the Petitioners who are the owners of the land in question and therefore the Respondent No.2 does not have the right to remain in occupation of the land as it is the violation of the Petitioners' rights under Article 300A of the Constitution. Mr. A. Das, the learned counsel for the Petitioners submitted that for the last so

many years prior to the filing of the writ petition as well as even after 12 years from the date of filing of the writ petition, the Respondents have not been able to place any document to show that the Petitioners' land have been acquired. The learned counsel further submitted that the Respondent Nos. 1 and 2 have been taking their stand as per their own convenience. Sometimes they duly admit that they have no right over the land under their occupation more particularly Dag No.5 and submits before this Court that they are taking steps for the purpose of acquisition and sometimes, the Respondent Nos. 1 and 2 again question the rights of the Petitioners. Merely on the basis of a possession certificate issued by Sadar Kanungoe in the year 1975, without there being any contemporaneous materials to show that there has been any acquisition of the land in terms with the provisions of law, the Respondent No.2 cannot be permitted to use and occupy the land of the Petitioners in violation to the mandate of Article 300A of the Constitution. In that regard, the learned counsel for the Petitioners referred to the judgment of the Supreme Court in the case of ***Tukaram Kana Joshi and Others Vs. Maharashtra Industrial Development Corporation and Others*** reported in (2013) 1 SCC 353 as well as the judgment of the Supreme Court in the case of ***Vidya Devi Vs. State of Himachal Pradesh and Others*** reported in (2020) 2 SCC 569.

24. Per contra, Ms. A. Gayan, the learned CGC submitted that the dispute in question is a civil dispute and as such, this Court may not like to exercise the jurisdiction under Article 226 of the Constitution.

25. Ms. A. Gayan, the learned CGC referring to the affidavit-in-opposition filed by the Respondent No.5 on 23.04.2025 and more particularly to the Jamabandi which has been enclosed as Annexure-R3 submitted that the said Jamabandi shows that Dag No.5 is a Government land on the basis of a remark being put as 'Chat'. In other words, it is the case of the Respondent Nos. 1 and 2 as per the submission that the Petitioners have no right over Dag No.5 or the sub-divided Dags which were Dag Nos. 5, 44, 45, 46, 49, 50, 51, 55, 56 and 58.

26. This Court has also heard Mr. J. Handique, the learned Junior Government Advocate appearing on behalf of the Respondent Nos. 4 and 5 who duly submitted on the basis of the pleadings so filed as well as the reports so submitted before this Court by the Revenue Authorities. Mr. J. Handique, the learned Junior Government Advocate submitted that from the materials on record, it is apparent that Dag No.5 as well as the Dag No.49 which is the subject matter of the present proceedings is under the possession

of the Respondent No.2. He further submitted that the acquisition which is being referred to by the Respondent Nos. 1 and 2 in the affidavit could not be traced out.

27. This Court heard the learned counsels appearing on behalf of the parties and has also taken note of the respective pleadings as well as the various reports so submitted by the Respondent No.5.

ANALYSIS AND DETERMINATION:

28. From the materials on record, it is apparently clear that Respondent No.2 is in possession of the land covered by Dag No.5 as well as Dag No.49 wherein patta has been issued in favour of the Petitioners. The record of rights also clearly shows that Petitioners' names have been duly mentioned against the said land. There is no quarrel with the proposition that the patta which has been issued to the Petitioners is a document of title. On the other hand, the Respondent No.2 has not been able to show even after a passage of more than 12 years (the period, the present proceedings are pending) that the land of the Petitioners were at all acquired and on the basis of which the land was handed over to the Respondent No.2. At this stage, it is relevant to observe that when a land is acquired, the said acquisition is carried out in terms with laws of acquisition. Insofar as the State of Assam is

concerned, the acquisition could have been made in terms with the Land Acquisition Act, 1894 or the Assam Land (Requisition and Acquisition) Act, 1964. Both types of acquisition require Gazette Notification for the purpose of initiating acquisition proceedings. Both the Acts also require Awards to be passed. There is also the requirement of payment of compensation. The Gazette Notification, Payment of compensation as well as Awards are records which are always maintained. Even acquisition made under the Defence of India Act, 1962 requires publication of notice in the official Gazette.

Nothing has been placed on record to show that any acquisition was carried out in the land belonging to the Petitioners.

29. This Court also takes note of that in the record of rights, there is no mention that at any point of time, any acquisition was carried over in respect of the original Dag No.5 or the subdivided Dags from the original Dag No.5. The name of the predecessor-in-interest of the Petitioners as well as the Petitioners have always been featured in the records of rights.

30. This Court finds it relevant now to take note of the document on which the Respondent No.2 has relied upon i.e. the document of handing over a possession. This document does not show in any

manner as regards what was the number of the Government Dags or the numbers of the patta and corresponding Dags wherein possession was granted to the Respondent No.2. The said document is completely vague. Further to that, the said document only shows that the land had been handed over.

31. The Respondent Nos. 1 & 2 have claimed that the land under their possession had been acquired. As already stated above, nothing has been placed to show any acquisition proceedings have been carried out.

32. The stand which has been taken by the State Authorities also makes it clear that the land in question belongs to the Petitioners.

33. Ms. A. Gayan, the learned CGC referring to the Jamabandi enclosed as Annexure-R3 to the affidavit-in-opposition of the Respondent No.5 contended that there is a remark 'Chat' which means that the land is Government land. The said submission is completely misconceived and appears to be a wrong understanding of how to read the revenue entries. It is relevant to mention herein that when from a particular Dag number, various other Dag numbers are culled out and the original Dag number remains, in order to trace the original Dag, the expression 'Chat' is used in the

revenue entries. The expression 'Chat' in the present case would show that from Dag No.5, various Dags were culled out however, certain portion of land is still retained in Dag No.5.

34. The records of the present proceedings would show that various opportunities have been granted to the Respondent Nos. 1 and 2 to acquire the land. However, today, it has been submitted that Respondent Nos. 1 & 2 are not inclined to acquire the land in question.

35. In the backdrop of the above factual analysis, this Court finds it very pertinent to take note of the judgment of the Supreme Court in the case of ***Vidya Devi (supra)*** wherein the Supreme Court in unambiguous terms had observed that the Constitutional rights under Article 300A of the Constitution is a human right and such power to take over the lands by the State has to be in consonance with the provisions of Article 300A of the Constitution. In the instant case, the Respondent Nos. 1 and 2 herein have taken the plea that they have been in occupation of the lands from 1975 onwards and the Petitioners have only initiated the proceedings sometime in the year 2005. In the case of ***Vidya Devi (supra)***, there was a delay of 42 years. Then also the Supreme Court held that the State cannot be permitted to usurp the rights of its citizens. It

was also mentioned that the State cannot also be permitted to take the plea of adverse possession thereby to grab the property of its own citizens. Paragraph Nos. 12.1, 12.2, 12.7, 12.8, 12.9, 12.10, 12.11, 12.12 and 12.13 of the judgment in the case of **Vidya Devi (supra)** being relevant are reproduced herein under.

*“**12.1.** The appellant was forcibly expropriated of her property in 1967, when the right to property was a fundamental right guaranteed by Article 31 in Part III of the Constitution. Article 31 guaranteed the right to private property⁴, which could not be deprived without due process of law and upon just and fair compensation.*

***12.2.** The right to property ceased to be a fundamental right by the Constitution (Forty-Fourth Amendment) Act, 1978, however, it continued to be a human right in a welfare State, and a constitutional right under Article 300-A of the Constitution. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article.*

***12.7.** In this case, the appellant could not have been forcibly dispossessed of her property without any legal sanction, and without following due process of law, and depriving her payment of just compensation, being a fundamental right on the date of forcible dispossession in 1967.*

***12.8.** The contention of the State that the appellant or her predecessors had “orally” consented to the acquisition is completely baseless. We find complete lack of authority and legal sanction in compulsorily divesting the appellant of her property by the State.*

12.9. *In a democratic polity governed by the rule of law, the State could not have deprived a citizen of their property without the sanction of law. Reliance is placed on the judgment of this Court in *Tukaram Kana Joshi v. MIDC* wherein it was held that the State must comply with the procedure for acquisition, requisition, or any other permissible statutory mode. The State being a welfare State governed by the rule of law cannot arrogate to itself a status beyond what is provided by the Constitution.*

12.10. *This Court in *State of Haryana v. Mukesh Kumar* held that the right to property is now considered to be not only a constitutional or statutory right, but also a human right. Human rights have been considered in the realm of individual rights such as right to shelter, livelihood, health, employment, etc. Human rights have gained a multi-faceted dimension.*

12.11. *We are surprised by the plea taken by the State before the High Court, that since it has been in continuous possession of the land for over 42 years, it would tantamount to "adverse" possession. The State being a welfare State, cannot be permitted to take the plea of adverse possession, which allows a trespasser i.e. a person guilty of a tort, or even a crime, to gain legal title over such property for over 12 years. The State cannot be permitted to perfect its title over the land by invoking the doctrine of adverse possession to grab the property of its own citizens, as has been done in the present case.*

12.12. *The contention advanced by the State of delay and laches of the appellant in moving the Court is also liable to be rejected. Delay and laches cannot be raised in a case of a continuing cause of action, or if the circumstances shock the judicial conscience of the Court. Condonation of delay is a matter of judicial discretion, which must be exercised judiciously and reasonably in the facts and circumstances of a case. It will depend upon the breach of fundamental rights, and the remedy claimed, and when and how the delay arose. There is no period of limitation*

prescribed for the courts to exercise their constitutional jurisdiction to do substantial justice.

12.13. *In a case where the demand for justice is so compelling, a constitutional court would exercise its jurisdiction with a view to promote justice, and not defeat it.”*

36. This Court now finds it relevant to take note of an earlier judgment of the Supreme Court in the case of ***Tukaram Kana Joshi (supra)*** wherein the Supreme Court at Paragraph No.17 observed that depriving the citizens of their immovable properties was a clear violation of Article 21 of the Constitution. In a welfare State, the Statutory Authorities are bound not only to pay adequate compensation, but there is also a legal obligation upon them to rehabilitate such persons. At Paragraph No. 18, the Supreme Court further observed that the Appellants therein were deprived of their legitimate dues for about half a century and accordingly passed specific directions at Paragraph No.22 for acquisition. Paragraph Nos. 17, 18 and 22 of the said judgment being relevant are reproduced herein under:

“17. *Depriving the appellants of their immovable properties was a clear violation of Article 21 of the Constitution. In a welfare State, statutory authorities are bound, not only to pay adequate compensation, but there is also a legal obligation upon them to rehabilitate such persons. The non-fulfilment of their obligations would tantamount to forcing the said uprooted persons to become vagabonds or*

to indulge in anti-national activities as such sentiments would be born in them on account of such ill-treatment. Therefore, it is not permissible for any welfare State to uproot a person and deprive him of his fundamental/constitutional/human rights, under the garb of industrial development.

18. *The appellants have been deprived of their legitimate dues for about half a century. In such a fact situation, we fail to understand for which class of citizens the Constitution provides guarantees and rights in this regard and what is the exact percentage of the citizens of this country, to whom constitutional/statutory benefits are accorded, in accordance with the law.*

22. *Be that as it may, ultimately, good sense prevailed, and the learned Senior Counsel appearing for the State came forward with a welcome suggestion stating that in order to redress the grievances of the appellants, the respondent authorities would notify the land in dispute under Section 4 of the Act within a period of 4 weeks from today. Section 6 declaration will be issued within a period of one week thereafter. As the appellants have full notice and information with respect to the proceedings, publication in the newspapers either of the notification or of the declaration under the Act are dispensed with. Notice under Section 9 of the Act will be served within a period of 4 weeks after the publication of Section 6 declaration and award will be made within a period of three months thereafter. The deemed acquisition proceedings would thus be concluded most expeditiously. Needless to say, the market value of the land in dispute will be assessed as it prevails on the date on which the Section 4 notification is published in the Official Gazette. Payment of compensation/award amount will be made to the claimants/persons interested immediately thereafter, along with all statutory benefits. The appellants shall be entitled to pursue the statutory remedies available to them for further enhancement of compensation, if so desired."*

37. This Court has also taken note of that in both the judgments in

the case of ***Tukaram Kana Joshi (supra)*** as well as ***Vidya Devi (supra)***, the Supreme Court had directed acquisition of the land. However, in the instant case, the Respondent Nos. 1 & 2 in spite of various opportunities have today submitted that the Respondents do not want to acquire the land. Under such circumstances, it is therefore the opinion of this Court that the Respondent Nos.1 & 2 cannot be permitted to further continue with their illegal occupation over the land more particularly in Dag No.5 and Dag No.49 of Patta No.31 situated at village Sarutari under Mouza Sonapur in the District of Kamrup (M) Assam. This Court is also of the opinion that there has to be an adequate compensation paid by the Respondent No.2 to the Petitioners on the basis of the illegal occupation of the land.

CONCLUSION:

38. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) The Respondent Nos.1 & 2 have no right to remain in possession over the land covered by Dag No.5 (1 Bigha 2 Kathas 15 Lechas) and Dag No.49 (3 Bighas 2 Kathas 9 Lechas) of Patta No.31 totaling to 5 Bighas 0 Katha 4 Lechas situated at village

Sarutari under Mouza Sonapur in the District of Kamrup (M) Assam. The said land have been identified as would be seen from the various demarcation reports. The Respondent Nos. 1 & 2 are aware of the area as demarcation was carried out in their presence. Accordingly, this Court therefore directs the Respondent No.2 to vacate the land covered by Dag No.5 (1 Bigha 2 Kathas 15 Lechas) and Dag No.49 (3 Bighas 2 Kathas 9 Lechas) of Patta No.31 totaling to 5 Bighas 0 Katha 4 Lechas situated at village Sarutari under Mouza Sonapur in the District of Kamrup (M) Assam within 60 (sixty) days from the date of passing of the present judgment.

(ii) The vacant possession of the land be handed over by the DIG, GC, CRPF or his delegatee within the period as directed herein above.

(iii) During this period, the Respondent No.2 would be at liberty to remove all their movable and immovable assets so that the Petitioners could be handed over the vacant possession. It is observed that if the Respondent No.2 fails to remove the movable and immovable assets standing upon the land, the said assets would be removed by the Respondent Nos. 4 and 5 at the cost of

the Respondent No.2.

(iv) In order to ensure that no dispute arises in future as regards the extracted area of land, this Court further directs that at the time of handing over the possession of the land by the Respondent No.2 to the Petitioners or their duly authorized representative, the Circle Officer, Sonapur Revenue Circle shall be represent.

(v) Insofar as the compensation for the purpose of illegal possession of the land in question, this Court is of the opinion that the compensation amount payable to the Petitioners has to be taken from the date of filing of the instant writ petition. Accordingly, this Court directs the Deputy Commissioner, Kamrup (M) to make assessment of the compensation payable to the Petitioners in terms with the provisions of Section 11(4) of the Assam Land (Requisition and Acquisition) Act, 1964 with effect from 11.04.2015 till date of handing over of possession and thereupon submit the same to the Respondent No.2.

(vi) The said amount be paid to the Petitioners within 6 (six) months from the date of communication of the assessment by the Deputy Commissioner, Kamrup (M) to the Respondent No.2. It is made clear that if the Respondent No.2 or the Petitioners are

aggrieved by the assessment of the rental compensation, the Parties would be at liberty to assail the same in accordance with law.

(vii) No costs.

JUDGE

Comparing Assistant