

(2021) 06 GAU CK 0131

Gauhati High Court

Case No: Writ Petition (Civil) No. 3121 Of 2021

Pankaj Kalita

APPELLANT

Vs

State Of Assam And 3
Ors

RESPONDENT

Date of Decision: June 23, 2021

Acts Referred:

- Constitution Of India, 1950 - Article 226

Hon'ble Judges: Kalyan Rai Surana, J

Bench: Single Bench

Advocate: P P Das

Judgement

Heard Mr. P.P. Das, learned counsel for the petitioner. Also heard Mr. P. Nayak, learned standing counsel for PWD, respondent nos.1, 2 and 4 and

Mr. K. Gogoi, learned Additional Senior Govt. Advocate appearing for respondent no.3.

By filing this writ petition under Article 226 of the Constitution of India, the petitioner has projected that he has constructed a RCC building (G+1) over

his own land at Boko Barpara, Mouza- Boko in the district of Kamrup and on 05.06.2021, officer and staffs under respondent no.2 informed the

petitioner that his building would be demolished to the extent of 5.5 feet in East direction and 32 feet in North South direction for extension of the Boko

Pairanga Road. The learned counsel for the petitioner submits that the land is patta land and the competent authority has not issued any letter/ notice

for acquisition or requisition the patta land of the petitioner.

Accepting notice on behalf of respondent nos.1, 2 and 4 and opposing the prayer for interim relief, the learned standing counsel for the PWD submits

that as per his instruction, the said respondents are contemplated to construct a drain in the front side of the house of the petitioner for the purpose of

widening the road and he submits that no attempt is made to demolish any part of the house of the petitioner or 32 feet in North South direction as

claimed by the petitioner. It is also submitted that in the event any demolition takes place, the same would not be at the instance of the respondent

nos.1, 2 and 4, but the demolition, if any would be by the district administration.

Issue notice returnable on 04.08.2021.

As the learned Additional Senior Govt. Advocate and the learned departmental counsel have accepted notice on behalf of all the respondents, requisite

additional copies of the writ petition be furnished to them within 2 (two) days.

In the interim, the Court is inclined to provide that without service of written notice giving reasonable time of at least 3 (three) working days, the

respondent nos.3 and 4 are restrained from demolishing any part of the residential house of the petitioner falling within the patta land and in the event,

the authorities find encroachment by the petitioner, even then also appropriate notice with reasonable time as allowable under law be served on the

petitioner before taking any action to demolish the building of the petitioner. This restraintment order shall continue till the next date of listing.

The petitioner is permitted to serve a downloaded copy of the order on the respondents and the respondent authorities are at liberty to verify the

correctness of the order from the website of the Court and act accordingly.

List on 04.08.2021.