

OUT TODAY

ITEM NO.28

COURT NO.6

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) D No(s). 2121/2020

(Arising out of impugned final judgment and order dated 09-12-2019 in PIL No. 78/2012 passed by the Gauhati High Court)

ABUL KHAYER & ORS.

Petitioner(s)

VERSUS

THE STATE OF ASSAM & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.18146/2020-EXEMPTION FROM FILING O.T. and IA No.12836/2020-EXEMPTION FROM FILING O.T. and IA No.12833/2020-PERMISSION TO FILE PETITION (SLP/TP/WP/..) and IA No.12837/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No.18143/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

Diary No. 1737 of 2020 (XIV)

(FOR ADMISSION and I.R. and IA No.17665/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.17664/2020-PERMISSION TO FILE PETITION (SLP/TP/WP/..))

Date : 03-02-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Petitioner(s)

Mr. Manoj Swarup, Sr. Adv.

Mr. N.T. Pant, Adv.

Mr. Jawed Tariq, Adv.

Ms. Vidisha Swarup, Adv.

Mr. Satish Pandey, AOR

Mr. Salim Ansari, Adv.

Ms. Ninanda Nair, Adv.

Mr. Umesh Babu Chaurashia, Adv.

Mr. C.U. singh, Sr. Adv.

Mr. Fuzail Ahmad Ayyubi, AOR

Mr. Abdul Quadri, Adv.

Mr. ibad Mushtaq, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Permission to file Special Leave Petitions is granted.

The principal grievance of petitioners before this court is that peremptory directions have been issued by the High Court which are likely to be construed as having been issued after recording finding of fact that the petitioners and similarly placed occupants in the concerned area are unauthorized occupants.

This apprehension, in our opinion, is misplaced. For, the tenor of the order which is impugned in these Special Leave Petitions is merely to direct the Deputy Commissioner to proceed against the unauthorized occupants in accordance with law - which presupposes that the Deputy Commissioner must examine the claim of each occupant on case to case basis and after recording satisfaction in light of evidence produced before him proceed to pass appropriate order(s) as per law.

We may add that, if that order is adverse to the occupants, the Deputy Commissioner must give reasonable time to the occupants to take recourse to appropriate remedy as may be permissible in law

In other words, the Deputy Commissioner shall decide the proceedings uninfluenced by any of the observations made by the High Court in the impugned judgment and order.

It will be open to the Deputy Commissioner to request the High Court to extend the timeline specified in terms of the impugned judgment and order, which request we are certain would be

considered appropriately by the High Court.

Besides this, nothing more is required to be clarified. These Special Leave Petitions are disposed of accordingly.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)