

(2026) 02 SC CK 1764

In the Supreme Court Of India

Case No : Civil Appeal Nos. 1464- 1465 Of 2026 (@ Special Leave Petition (Civil) Nos. 23647-23648, 32624, 32296, 32993, 34412 34556 Of 2025)
With Writ Petition(Civil) Nos. 1046 Of 2025, 65 Of 2026

Abdul Khalek & Others

APPELLANT

Vs

State Of Assam & Others

RESPONDENT

Date of Decision : 10-02-2026

Acts Referred:

Constitution of India, 1950 — Article 32, 48A, 51A(g), 226
Assam Panchayat Act, 1994 — Section 5

Citation : (2026) 02 SC CK 1764

Hon'ble Judges : Pamidighantam Sri Narasimha, J;Alok Aradhe, J

Bench : Division Bench

Advocate : Manish Goswami, Anasuya Choudhury, Boidurjyamani Deka, Shameen Yaser, Mridunil M Kashyp, Sudha Pradhan, Wajeesh Shafiq, Huzefa Ahmadi, Rauf Rahim, Chander Uday Singh, Rauf Rahim, Adeel Ahmed, Gias Uddin, Abdur Razzaque Bhuyan, Ali Rahim, Katyayani Suhurd, Nekib Zaman Choudhury, Arif Mir, Nasim Akram, Mohsin Rahim, Nesim Akram Barbhuyan, Ratnadeep Shrivasti, Nekibur Zaman Choudhury, Aamir Hussain, Ratnadeep Shrivasti, Nasim Akram Mazarbhuiya, Rashmi Singh, Bidya Mohanty, Aamir Hussain, Shehnaz Laskar, Azizul Hoque, Aamir Husain, Ratnadeep Shrivasti, Md Ghouse Muddin Khan, Abhishek Kalaiyaran, Farha Naaz, Taqdees Fatima, Gurmeet Singh Makker, Tushar Mehta, Chinmoy Sharma, Shuvodeep Roy, Diksha Rai, Deepayan Dutta, Saurabh Tripathi, Digvijay Dam, Vijay Deora, Medha Pushkarna

Final Decision : Disposed Of

Judgement

Alok Aradhe, J

1 Leave granted.

2. These appeals and the Writ Petitions raise before this Court a question of considerable, constitutional and environmental significance, namely the State's obligation to protect reserved forest in discharge of its constitutional mandate

and the manner in which such obligation must be fulfilled, when long standing human habitation is asserted within the forest land.

3. The appellants and the writ petitioners before this Court are residents of several villages which are situate in Doyang reserved forest, South Nambor Reserved Forests, Jamuna Madunga Reserve Forest, Barpani Reserved Forest, Lutumai Reserved Forest and Gola Ghat Forest in the State of Assam. According to the appellants/writ petitioners, they and their predecessors have been residing in the villages for more than seventy years. The appellants/writ petitioners contend that their existence and residence have been acknowledged by issuing Aadhar Cards, ration cards and other identity documents by the state agencies.

4. On the other hand, the State Government asserts that the land in occupation of the appellants/writ petitioners is within reserved forest and appellants/writ petitioners have no legal right to occupy the land comprised in the reserved forest. It is the case of respondents that the forest areas were notified as reserved forests in the year 1887 and 1888 under the forest laws, then in force. The forest department of Government of Assam issued eviction notices to the appellants/writ petitioners, on the ground that they were unauthorized occupants of reserved forest land and directed them to vacate the said lands within a period of seven days from the date of the receipt of the notices.

5. The issuance of eviction notices, particularly the short time granted for vacating the land, prompted the appellants before us to approach the Gauhati High Court by filing writ petitions under Article 226 of the Constitution of India. The validity of eviction notices was challenged, inter alia on the ground that the same were arbitrary, violative of principles of natural justice and issued without affording any prior opportunity of hearing or adjudication of their claimed rights over the land.

6. The State resisted the writ petitions by contending that the large scale and systematic encroachments have taken place within the reserved forest area across the State of Assam. It was asserted that unauthorized occupants have cleared the forest land and diverted it for residential, agriculture and other non forest purposes, causing serious environmental degradation. The State in support of its claim placed statistical data on record to indicate that approximately 3,62,082 hectares of forest land was under encroachment and nearly 19.92% of the forest area in the State is affected. The State further submitted that in order to discharge its constitutional and environmental obligations, it has taken a policy decision to remove all unauthorised encroachments from the reserved forest and to restore such lands through reforestation and conservation measures.

7. The learned Single Judge by an interim order dated 29.07.2025 passed in W.P. (C) No. 4257 of 2025, extended the time to vacate the land in question till 07.08.2025. The aforesaid order was challenged in an appeal namely, W.A. No. 251 of 2025. The Division Bench of the High Court, by an order dated

18.08.2025, directed the State Government to frame necessary regulations to prevent unauthorised encroachment of reserved forests land and further directed the respondents to issue show cause notices to the appellants, granting them 15 days time to submit an explanation and a further period of 15 days to vacate the same in case they are asked to do so. The aforesaid order passed by the Division Bench is under challenge in the appeal @ S.L.P. No. 32624 of 2025.

8. The writ petitions preferred by the other appellants in remaining appeals were disposed of by learned Single Judge with liberty to the appellants to submit the representations and the respondents were directed to consider the representations. The appellants in other appeals have approached this Court directly by filing Special Leave Petitions without filing the writ appeals before the Division Bench of the High Court. The writ petitioners have also directly approached this Court by filing writ petitions under Article 32 of the Constitution of India inter alia praying for restraining the respondents from carrying on any eviction or coercive action against the writ petitioners. In the aforesaid factual background, the appeals and the Writ Petitions arise for our consideration.

9. Forests constitute one of the most vital natural resources of the nation. They are not merely repositories of timber or land capable of alternate use, but complex ecological systems indispensable for maintaining environmental balance. Forests regulate climate, preserve biodiversity, recharge groundwater, prevent soil erosion, and act as natural carbon sinks mitigating the adverse effects of climate change. In a country as ecologically diverse and climatically vulnerable as India, the role of forests assumes even greater significance. Encroachment upon forest land has emerged as one of the gravest challenges confronting environmental governance in the country. The Constitution casts a clear and unequivocal obligation upon the state to protect forest and the environment. Article 48A, forming part of Directive Principles of State Policy, mandates that the State shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country. Though, Directive Principles are not enforceable by Courts, they are fundamental in governance of the country and must guide the State in formulation and implementation of policy. Article 51A(g) of the Constitution imposes a fundamental duty upon every citizen to protect and improve the natural environment, including forests. These constitutional provision reflect a collective responsibility on the part of citizen as well as the State to prevent, regulate and remedy the environmental harm.

10. At the same time, constitutional governance demands that environmental protection be pursued through lawful means. The mandate to clear the encroachments from the forest land does not authorise an arbitrary action. The Constitution does not envisage a choice between the environmental protection and the rule of law, rather, it insists that both co-exist and reinforce each other.

11. We had heard learned senior counsel for the appellants/writ petitioners as well as learned Solicitor General on 16.01.2026, and had expressed our concern to maintain the rule of law while ensuring protection of environment. Thereupon

learned Solicitor General sought time to seek instructions and has filed an additional affidavit on 18.01.2026. Paras 3 to 9 of the said additional affidavit read as under:-

"3 .That this is the Constitutional obligation of the State Government, more particularly in light of the fact that as per the statistics given by the Ministry of Environment, Forest and Climate Change, Government of India. As per the data 3,62,082.62 hectares is under encroachment, in other words, a total of 19.92% of forest area is under unauthorised illegal encroachment. It is Constitutionally imperative that this unauthorized and illegal occupation as well as continuing illegal and unauthorised non forest activities are immediately removed.

3.1 That the first step for removal is to issue a notice on the alleged unauthorised occupant to enable him to show the evidence of him being in authorised occupation of the forest land.

3.2 That the recipient of the notice comes before a Committee of forest officials as well as revenue officials and produces the evidence, if any, available with him which can according to the notice, entitle him to stay in the Reserved Forest areas.

4. That the actions are taken for removal of encroachment areas only, if it is found that there is an illegal and unauthorised encroachment in the Reserved Forest area. If the land of the noticee is found to be within revenue limits, outside the notified forest area, the details are sent to the Revenue Department and the present drive which is confined only to evicting the Reserved Forest area has nothing to do with what the Revenue Department may or may not do thereafter.

5. That if the notice is found to be in unauthorised occupation of a Reserved Forest area, after scrutinising the documents placed by him, a Speaking Order is passed and served upon him giving him 15 days notice to vacate the unauthorised occupation. It is only thereafter that the actions are taken to remove the unauthorised occupants.

6. That so far as the controversy concerning existence of some Gaon Panchayat is concerned, it is submitted that there can be a Gaon Panchayat in a forest area. This is provided for in Section 5 in Assam Panchayat Act, 1994.

"5. Establishment of Gaon Panchayat – (1) The State Government may, by notification, declare any local area comprising a revenue village or a group of revenue village or a Forest villager or Tea Garden area or hamlets forming part of revenue village or Forest village or Tea Garden area or other such administrative unit or part thereof to be a Gaon Panchayat with population of its territory not less than six thousand and more than ten thousand;...."

7. That the concept of a Forest Village is a unique concept in Assam. A person entitled to stay in forest village finds his name mentioned in the statutory register called 'Jamabandi Register' maintained by the Forest Department for the

forest village and the person holds a document for the land under possession. Additionally, the title holders under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 are also legally authorised to occupy the forest land and are not liable for eviction. The rights mentioned above are inheritable but not alienable or transferable.

8. That individual whose name is mentioned in this register or hold rights under Forest Rights Act, 2006 are not unauthorised occupants. However, there are several unauthorised inhabitants who have encroached upon lands outside the Gaon Panchayat limits and in some cases inside the Gaon Panchayat limits which fall within the boundaries of Reserved Forests.

9. That it may be pointed out that a right to reside in Reserved Forest areas falling within a Gaon Panchayat is inheritable but non-transferable. There would be a separate set of documentary evidence showing authorised occupation within Reserved Forest areas which are falling under a Gaon Panchayat. Any unauthorised occupant residing inside Reserved Forest areas albeit falling under a Gaon Panchayat is liable to be evicted following the same procedure as pointed out above."

12. Thus, from perusal of aforesaid additional affidavit filed on behalf of the respondents, the following policy decision to remove unauthorised occupation from the reserved forest has been taken:

(i) The respondents shall constitute a committee comprising forest officials and the revenue officials.

(ii) The said committee shall issue notice to the alleged unauthorised occupants and shall give them an opportunity to adduce evidence to show that they have the right to occupy the land which is in their possession.

(iii) The action for removal of encroachment shall be taken, only if it is found that there is an encroachment in the reserved forest area.

(iv) In case the noticee is found to be within the revenue limits, outside the notified forest area, the details of the noticee shall be sent to the revenue department. In such cases, revenue department shall decide the future course of action.

(v) The action is being taken by the State to remove encroachment from the reserved forest areas and has nothing to do in respect of the matters which may be referred to the revenue department.

(vi) If an unauthorised occupation is found in a reserved forest area, after scrutiny of the documents, a speaking order shall be passed and shall be served on the concerned person giving him 15 days notice to vacate the unauthorised occupation and only after expiry of the period of notice, the action shall be taken to remove the unauthorised occupants.

(vii) Occupation of a Gaon Panchayat in a forest is permissible if there is a

sufficient proof as per the Jamabandi Register maintained by the Forest Department or as provided under the Forest Rights Act.

13. In our opinion, the course of action to be adopted by the State Government while removing the encroachment from the reserved forest contains sufficient procedural safeguards. The process sought to be adopted by the State Government for removal of encroachment conforms to the principles of fairness, reasonableness and due process. Learned Solicitor General has assured us that the mechanism evolved by the State shall be complied with objectively and with fairness while taking action for removal of unauthorised occupation in the reserved forests. The parties are directed to maintain status quo in respect of land in occupation of the appellants/writ petitioners till speaking order is passed and till expiry of notice period of 15 days. All contentions are kept open to be agitated before the committee. It is clarified that this Court has not expressed any opinion on merits of the claim of the parties, as the same has to be examined by the committee.

14. Accordingly, the judgment dated 18.08.2025 passed by the Division Bench and orders dated 03.11.2025, 06.11.2025, 12.11.2025 and 17.11.2025 passed in W.P. (C) Nos. 6191/2025, 6192/2025, 6418/2025 and W.P. (C) No.6167/2025 respectively, by learned Single Judge, of the High Court, are substituted and modified.

15. In view of the mechanism evolved by the State for taking action for removal of unauthorised occupation in reserved forests, as recorded in our order, it is not necessary to consider the writ petitions filed under Article 32 of the Constitution of India in detail. The writ petitioners will be entitled to avail such remedies as may be permissible in law.

16. Accordingly, the appeals as well as Writ Petitions are disposed of.

17. There shall be no order as to costs.