

(2016) 01 GAU CK 0018

In the Gauhati High Court

Case No : Rev. Pet. No. 3 of 2016 in WP(C) No. 648 of 2013

Panpur Bonansal Go-Palan Samittee and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 20-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226, Article 48-A, Article 51-A(g)

Land Acquisition Act, 1894 — Section 35(4)

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 — Section 6

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Citation : (2016) 2 GauLJ 420 : (2016) 1 GauLT 739

Hon'ble Judges : Tinlianhang Vaiphei, Actg. C.J. and Prasanta Kumar Saikia, J.

Bench : Division Bench

Advocate : D.P. Chaliha, Sr. Advocate, M. Rana and U.P. Chaliha, for the Appellant; K.N. Choudhury, Sr. Advocate and R.K. Bora, GA, for the Respondent

Final Decision : Allowed

Judgement

Prasanta Kumar Saikia, J.—1. This review application has been filed seeking following reliefs:--

" It is therefore prayed that Your Lordships would be pleased to admit the application, call for records of the case and issue Notice to the respondents to show cause as to why the petitioner should not be paid compensation for the loss of their property and to make alternative arrangement for their rehabilitation in the event of their eviction after due enquiry as directed by the Hon"ble High Court in its judgment and as further contended by the Hon"ble Supreme Court and after hearing the parties and perusal of records, make the rules absolute and/or pass such any or order(s) as Your Lordships may deem fit and proper in the facts and circumstances of the case. ".

We have heard Mr. D.P. Chaliha, Id. Sr. Advocate assisted by Mr. M. Rana and Mr. U.P. Chaliha, Id. counsel for the petitioners. Also, heard Mr. R.K. Bora, Id. Govt.

Advocate, appearing for the State respondents. Also, heard Mr. K.N. Choudhury, Id. Sr. Advocate.

2. The facts, necessary for disposal of the present proceeding can be gathered from "Synopsis" of the case. For ready reference, same is reproduced below:--

"The petitioner Panpur Bonanshal GO-Palan Samittee is registered association of cattle grazers in the Panpur Reserve Forest have been granted grazing permit initially by the District Administration and from 1969 by the Forest Department. There are 81 grazers who have their cattle mainly buffalo and cow in the khutis situated in the reserve forest. The grazing reserve was converted into Panpur Reserve Forest and presently the said area is now included in the 6th extension of Kaziranga National Park. Immediately after declaration of the 6th extension, the petitioner move the Hon"ble High Court against the threatened eviction by a writ petition which was numbered as WP(C) No. 6519/1999. By the order dated 22.5.2006 the Hon"ble High Court directed that the petitioners shall not be evicted from the khutis without following due process of law. As per direction of the Hon"ble High Court, the Government of Assam formed a committee headed by the Commissioner, Public Welfare and Higher Education cum Chief Secretary and he issued notices asking the petitioners and others residing in the area to file objection and their respective claims by notice dated 2.1.2009. The respective claims of the petitioners were headed by the committee but till date no decision has been given. The petitioners are therefore apprehensive that after the order passed by the Hon"ble High Court in P.I.L. No. 66/2012 and P.I.L. No. 67/2012 directed the State Government to clear all the encroachment in the Kaziranga National Park within a period of 3 months. The Hon"ble High Court vide order dated 09.10.2015 had rejected the claim of the petitioner in WP(C) No. 648/2013 and directed eviction of the petitioner within one month. Being aggrieved by the order the petitioner approached the Hon"ble Supreme Court vide SLP No. 34915/2015 in which the Hon"ble Supreme Court has given liberty to approach the High Court on the issue of rehabilitation/compensation.

The value of the cattle of the petitioners are more than Rs. 563.80 lakhs and if they are evicted without making any alternative arrangement for their rehabilitation the petitioners and their families will be completely ruined.

Hence, this review petition".

3. Now, in view of the order rendered in a batch of cases including the WP(C) No. 648/2013 on 09.10.2015, it is stated that the present petitioners face immediate prospect of being evicted from the land, over which they reportedly had grazing right, and that too, without giving them any compensation as required under the law to them. They have, therefore, approached this Court seeking aforesaid reliefs.

4. Such contention was opposed to by the learned Govt. Advocate stating that all the allegations, highlighted through this review petition had already been addressed to by this Court while rendering the judgment in question in the

batches of proceedings aforesaid. According to learned Govt. Advocate, the petitioners herein could not show any ground requiring this Court to review its earlier order rendered on 09.10.2015.

5. In that connection, we have heard Mr. K.N. Choudhury, learned Senior counsel. Mr. Choudhury submits that all the points which are sought to be canvassed in this proceeding have already been agitated in the aforementioned batch of cases and such contentions were adequately addressed by this Court while rendering the judgment aforementioned.

6. Being so, grounds on which present review application has been filed hardly afford any basis requiring this Court to review the earlier order. To support such a contention, we have been taken through the judgment in question. Mr. K.N. Choudhury, learned Senior counsel, too, therefore urges this court to dismiss the proceeding.

7. Before proceeding further, we find it necessary to have a look at the judgment in question. For ready reference, the relevant parts of the judgment are reproduced below:--

"The news concerning the illegal poaching of rhinoceros and other wild animals in the Kaziranga National Park(KNP) was widely reported in three English dailies. The Telegraph dated 28th and 29th September, 2012, The Indian Express dated 27th September, 2012, and The Hindu dated 27th September, 2012.

2) This Court suo motu registered a PIL (No. 66/2012) to inquire into the news report regarding illegal poaching and killing of wild animals in the KNP. PIL 67/2012 is filed by one Mrinal Saikia on the same subject matter with an additional relief of removal of human habitation and encroachment in the animal corridors in and around the KNP.

3) The eight residents of the second addition of the KNP filed 4860/2013 contending that before the second addition is added to KNP the requisite formalities as required under Sections 26A and 35 of the Wild Life(Protection)Act, 1972 and the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (in short, the Forest Rights Act of 2006) have not been complied. In that view it is submitted that without formal compliance of the requisites of law the eviction of the residents is illegal. Therefore they seek a writ of mandamus directing the respondents to complete the process of settlement of rights under the Wildlife Protection Act in pursuance of the notifications issued as "additions" under the Wildlife Protection Act and to constitute statutory committees under the Forest Rights Act to ensure that no eviction takes place without the due process of law.

4) This Court by order dated 4th March, 2014 passed the following order on 4.3.2014 directing the Director of KNP to submit a detailed report about the geographical features, the flora and fauna, the animal life, the contributory reasons, which is aiding the poaching and illegal activities and also to give long-

term solutions to remedy the ills affecting the Park.

"Before Hon"ble Mr. Justice A.M. Sapre, The Chief Justice Hon"ble Mr. Justice A.K. Goswami 04.03.2014. (A.M. Sapre, C.J.)

Today we have heard the views of Mr. M.K. Yadav, Director, Kaziranga National Park, who is present in person and also heard the views of several learned counsel appearing for various organisations and stakeholders on the various problems faced by Kaziranga National Park and in particular with regard to poaching of rhinos which, has caused serious concern to all.

Mr. Yadav, Director, Kaziranga National Park, submitted that sincere steps are being taken to curb poaching at any cost. He also submits that Government be granted around two months time to prepare high quality methodical report to suggest various proposals for curbing poaching on a permanent basis and also on related issues dealing with the Park and to preserve the endangered species "Rhino". We express our serious concern about the incidences of poaching in Kaziranga National Park which have recently taken place and are taking place from time to time, we view it seriously. At any cost, in our view, the same must be stopped at the earliest to save the nature's most priceless and precious endangered species "Rhino". Indeed, it is our duty to preserve this God's gift to this world at any cost.

We grant two months time to the Director, Kaziranga National Park to submit the detail report on or before the next date of hearing suggesting therein the effective and remedial steps for implementation to curb poaching of "rhinos" the Kaziranga National Park. He is at liberty to take help of all stakeholders, organisations, parks all over the world for preparation of report.

We request Mr. Yada, Director, Kaziranga National Park, to remain present on every date of hearing to facilitate the hearing on the matter.

List on 26th of May, 2014".

5) The Director of the KNP pursuant to the said order has gone into the issue and submitted a detailed report in a book form containing 402 pages. The brief description of the contents of the book is as follows.

"Kaziranga, the home of the Greater One Homed Rhinoceros, faces certain threats which, if not adequately mitigated today, would become the cause of extinction of the rhinoceros in times of come. The Report dwells upon the cause and possible solutions in some details. The factors identified as threat to the survival of the rhinos, other than poaching, are loss and fragmentation of habitat, lack to technology and strategic advantage over poachers, certain lacuna in policy and law and their implementation, challenges of growth and development on the fringes of me park and possible impacts of climate change and climate variations. The approach to mitigate the threats and ensure long term survival of Kaziranga is multi pronged and mum" disciplinary with a series of immediate, short term, medium term and long term measures to be

undertaken. Some of the suggested measures include erosion control, habitat improvement, extension of habitat, corridors retrofitting, upscaling of anti poaching infrastructure, security and surveillance in and around the Park, adopting a landscape based approach and constitution of a landscape authority for conservation and development of the areas, adopting a green growth approach for development in the landscape, adopting better management strategies such as organizational restructuring, increased staff strength, staff welfare and creating some key and necessary infrastructure, adopting better policies and strengthening further the legal provisions, and above all creating several secure habitats outside Kaziranga for the rhinos. The Report also identifies the actionables and classifies them into immediate, short term, medium term and long term time frames. A tentative budgetary estimate of the measures suggested is also provided at the end along with possible sources of funding. The Report projects financial estimates for a period of 10 years.

The Report is divided into three parts. Part I of the Report examines the key issues and challenges being faced in rhino protection. It also contains a brief description of the existing set up and provides the background information required for further analysis. Part I is divided into 9 chapters dealing with habit issues, human interface issues, policy and law, rhino population dynamics, rhino poaching, stakeholders' analysis and in brief about Kaziranga.

Part II of the Report contains the proposed solution framework and consists of 9 chapters. The solution framework is divided into habitat strategies, upscaling anti poaching infrastructure, Kaziranga Landscape Conservation and Development Authority. Management strategies, Kaziranga Landscape Green Growm Framework, Policy, Law, protocols and programme strategies, Time budget, and lastly Budget and finances, it also contains the references, some website links and bibliography along with citations for further reading.

Part III of the Report contains the annexures such as tables, photo-plates, soft version minutes of various meetings held and comments and suggestions received from various experts and stakeholders, and other annexures.

The Report finds that other than the poaching, there are other threats to the survival of rhino such as lack of adequate and secure habitat which is very badly in need of extension, retrofitting of the existing corridors, introducing SMART GUARD and SMART Communication and a series of technology interventions in short and medium term, green growth and green development opportunities for the fringe villages. On the policy side, it recommends amendments in the Wildlife (Protection) Act, 1972, challenges in the ways wildlife crime investigation is handled, organisational modifications, constitution of a Kaziranga Landscape Conservation and Development Authority to manage the entire landscape as a single unit consisting of the core, buffer and all the corridors and watersheds. The Report recommends initiation of the Rhino Range Expansion Project, setting up of key infrastructure and welfare of staff.

The actual implementation of the recommendations would require a series of ground surveys, in depth study, execution of Proof of Concepts, preparation of DPRs and Technical Feasibility Reports. The implementation would largely depend upon how strong is the institutional framework, availability of funds, support of the stakeholders, especially the local stakeholders, and the monitoring and feedback mechanisms put in place"

8) The high-power committee has gone into the issues and has filed a report, which is as follows.

"Minutes of the 3rd meeting and field visit of the high powered constituted by the Hon"ble Gauhati High Court in PIL 66/2012 held on 24th May, 2015 at 8.00 AM at Kohora, Kaziranga National Park.

Members present:

List of the members present is annexed herewith.

The Commissioner & Secretary, Revenue & DM Department, Govt. of Assam chaired the meeting and the field visit. The field visit, in order to cover maximum area, started right at 8.00 AM in the morning starting from the 3rd Addition to Kaziranga National Park followed by the 2nd Addition to the Kaziranga National Park, part of the core areas of Kaziranga National Park 5th Addition to Kaziranga National Park, 1st Addition to Kaziranga National Park and the 6th Addition to Kaziranga National Park along with a view of the core of the Kaziranga National Park at places. The Committee also took stock of Govt. land at Banderdubi and Deosur areas as well. The Committee was accompanied, among others, by the members of the Gauhati High Court Bar Association and the learned Counsels appearing on behalf of the Petitioners and Defendants, and officials from the Forest, Revenue and Police and Home Departments.

The members also interacted with the people residing in the addition areas, and visited the actual habitation sites where the people were currently residing or had erected huts etc. The Committee visited Siljurigaon, Methoni Bagicha, No. 1 Sildubigaon, No. 2 Sildubigaon, Periphery of Kaziranga Nankegaon, Hatikhuli TE areas and the Haldibari in the 2nd, 3rd, and 5th Additions to KNP and khuties in the 6th Addition areas. After taking the stock of the ground situation and after much deliberation, the following decisions were arrived at:--

1. List of the encroachers/settlers on the government land in the vicinity of Kaziranga National Park, its 6th Additions and the NH37 (Jakhlabandha to Bokakhat) to be prepared by the respective Deputy Commissioners and it should be given to SP (border) within one month. The SP (Border) shall examine the same and take appropriate action within 30 days, such as handing over cases to the Hon"ble Foreigners" Tribunal, if required.

2. Village Land Bank must be re-verified within 15 days i.e. till 10th of June, 2015 by the respective Revenue Officers as per direction already issued by the Revenue & DM Department, on priority for all the areas falling in the vicinity of

the Kaziranga National Park and its Additions.

3. Banderdubi and Deosur. A detailed in-depth survey of individuals/families occupying Government land along with land status report is to be prepared by the concerned DC/SDO (Civil) and it should be provided to police within one month for taking further action.

4. The Committee observed that the general impression after the field visit in the 2nd Addition areas, was that most of the constructions were new dating back from last one to ten years and temporary and semi permanent in nature, which have been erected with an apparent intention of bargaining for land elsewhere.

5. The Committee observed that persons, mostly in the 3rd Addition areas, were share croppers from across the NH 37 and other nearby areas and settled in last 5 years in temporary structures. The land mostly belonged to persons far away from the Addition area.

6. The Committee observed that a large numbers of annual patta had been issued in 2nd Addition to KNP, 3rd Addition to KNP and the 5th Addition to KNP. The DC Golaghat shall launch an intensive drive to verify each and every annual patta holder and submit report within 30 days whether they are still in possession of the land. NR cases should be registered against the non occupant Patta holders.

7. The Committee observed that in the 2nd Addition to KNP, land was also procured by the Government from the Hatikhuli Tea Estate to make it part of the Kaziranga National Park and the Tea Estates was paid too for this transaction. Hatikhuli has not removed the structures or its persons from the said portion of the 2nd Addition. The DC Golaghat was directed to verify the records and take immediate action to free the land from encroachment by the Tea Estate and the management of the Tea Estate, if necessary.

8. In the 6th Addition, the semi-permanent make-shift bamboo structures called khutis were observed to have been put up recently. It could be sensed on talking to the encroachers that many of them had mischievously been planted by some vested interests. The DC, Sonitpur was directed to remove them from the Addition areas without any further delay.

9. The Committee noticed that a compensation package to the permanent Patta holders in the 2nd, 3rd and the 5th Additions to KNP has been submitted to the R&DM Department in 2013. Since two years have passed the DC Golaghat was asked to verify the list of the patta holders in these addition areas to facilitate the decision and rehabilitation package.

10. After the Addition areas are made encroachment free, the Forest Department would construct appropriate structure to mark the areas. Boundary pillars which can be spotted from a distance should be fixed on all corner points of the Park boundary and the Addition areas immediately after joint survey with the Revenue authorities.

11. The Committee decided that it will review the progress of the work in the last week of June, 2015.

9) It is said that the entire area of KNP including 1st to 6th additions measures at 884.44 square kilometres and the possession of the land in 2nd addition has also been handed over, but there are some encroachments. With regard to the 3rd and 5th Additions, the preliminary notification and inquiries required under the law are held, but no final notification is issued.

10) This Court passed the following order on 15.7.2015.

"Before Hon"ble The Chief Justice (Acting) Mr. K. Sreedhar Rao Hon"ble The Justice P.K. Saikia ..Order.. 15.07.2015.

(K. Sreedhar Rao, CJ (Acting))

Mr. N. Dutta, learned Senior Counsel for the petitioners submitted that in the 3rd Addition, vide report, dated 05.08.2014, the number of families living by encroachment was 32. In the current report, 82 families are shown to be now pattadars. It is submitted that from the report it is seen that the Government is encouraging the encroachers by granting pattas.

It is said that the Bandardubi village, 183 families are living as encroachers and in Deuchur Chang village 122 families are living as encroachers, thus, total 305 families are living as encroachers. The said families have been given the building materials under Indira Awas yojana, a Government Scheme, for building houses. It is also said that LP Schools, Madrassas, Iddgah and Masjids are constructed in the villages. It is argued that the Government is encouraging the encroachments and facilitating their permanent settlement.

The above material discloses that there appears to be some improprieties and illegalities in granting pattas and legalizing the encroachments. It is, therefore, directed that the Revenue Authority, particularly, the Deputy Commissioners of Nagaon, Sonitpur and Golaghat to furnish the copies of all the pattas granted to the persons in 3rd Addition.

In so far as the Bandardubi and Deuchur Chang villages are concerned, the Deputy Commissioner, Nagaon shall evict the encroachment of Government land from the said two villages on or before 12.08.2015, if necessary with effective police assistance.

The Superintendent of Police(Border), Nagaon shall also make verification of the Nationality of the encroachers in the 2nd, 3rd and 5th Additions. The compliance report to be submitted by 12.08.2015.

The biometric of all the residences in 2nd, 3rd and 5th Additions is to be taken and report to be submitted by 12.08.2015.

Hand delivery of the order to be given to the Assistant Solicitor General of India, Government Advocate, Assam, the Standing Counsel, Forest Department and the

Director, Kaziranga National Park.

Call the matter on 12.08.2015".

11) This Court has directed the Deputy Commissioners to evict the residents from the park area including the 2nd, 3rd 5th, 6th additions and also the residents of Bandardubi, Deuchur Chang and Palkhowa.

12) The petitioners in WP(C) 648/2013 contend that the petitioners are grazing cattle in the lands in the sixth addition and without settlement of compensation they should not be evicted.

14) Shri S. Upadhyay, the learned counsel for the petitioner in WP(C) 4860/2013, urged the following contentions to resist the eviction process against the petitioners.

(i) There has been no valid acquisition of the said villages as contemplated under Section 26A and 35 of the Wild Life (Protection) Act, 1972, besides there is no compliance of the requirements of the Forest Rights Act of 2006. The authorities are evicting the petitioners who are the lawful residents and patta-holders of the lands.

(ii) The provisions of Sub-section (3) of Section 26A of the Wild Life (Protection) Act, 1972, earlier to the amendment dated 1st April, 2003, insisted that there should be a resolution passed by the legislature to authorise for addition or alteration of the boundaries of a National Park as a condition precedent. In this case, the unamended provisions prior to 1st April, 2003 will apply. Since there is no resolution passed by the Legislature, the entire acquisition proceedings are illegal.

(iii) Section 35(5) of the Wild Life(Protection) Act, 1972 declares that no alteration of the boundaries of at National Park by the State Government shall be made except on a recommendation of the National Board. In this case, there is no recommendation of the National Board is obtained. Hence, the acquisition proceedings are illegal.

(iv) There has been no final notification issued as required under Sub-section (1) of Section 35 of the Wild Life (Protection) Act, 1972 in respect of the second, third and fifth Additions of the KNP.

(v) The definition of "forest land" under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 includes the Sanctuaries and National Parks. Section 6 of the Act protects the rights of the Scheduled Tribes and other traditional forest dwellers. The Act contemplates constitution of gram sabhas and forest rights committees. The said gram sabhas and forest rights committees have to scrutinise and record the rights of forest dwellers and Scheduled Tribes living in the forest. In the present case, no such gram sabhas or forest committees are constituted. The petitioners are all

residents of the forest area since the 1950s and pattas have been granted in their favour in the year 1962. The summary eviction of the petitioners cannot be done without inquiry and without ascertaining their rights over the land in question.

(vi) The affidavit of the Director filed before the Supreme Court in WP(C) No. 337/1995 dated 23rd January, 2006, it is mentioned that for the proposed third addition of Kaziranga National Park, the preliminary notification under section 18 has been issued. The provisions of Section 18 pertains the acquisition of land for the purpose of sanctuary and not for the National Park. Therefore, without there being proper notification for acquisition of land for National Park, the entire acquisition proceedings are illegal.

(vii) The minutes of the meeting held on 18.1.2013 pursuant to the order of this Court dated 8th January, 2012 wherein there is a mention that the ADC (Revenue), Golaghat has stated that since no money has been acceptable/handed over by/to anyone, "the land acquisition process in respect of the patta lands under the 2nd, 3rd and 5th addition area is not deemed as completed as per the land acquisition Act".

(viii) The Sub-section (4) of Section 35 of the Act contemplates that before eviction all claims of the petitioners have to be disposed of by the state government and thereafter the final notification has to be published regarding the vesting of the land. Since no such procedures have taken place, without a valid acquisition the petitioners cannot be evicted.

15) The petitioners 4 and 5 claim that their ancestors and they are residing in Siljuri village since the time of independence and they have been granted the myadi patta. Petitioner 7 and 8 also claim that they are residing since the 1950s on the land covered under the fifth addition by paying touzi to the government. In the light of the statements made by the Additional Deputy Commissioner, Golaghat the process of acquisition as required under Section 35(4) of the Land Acquisition Act, 1894 having not been complete any premature eviction would be illegal.

16) The learned counsel relied on the decisions of the Supreme Court in Pradeep Krishen v. Union of India and others(, AIR 1996 SC 2040). In paras 5 and 17 of the judgment the following observations are made.

"5. The deponent further states that there are 11 National Parks and 33 Sanctuaries in the State of Madhya Pradesh, out of which 3 National Parks are finally notified under the National Park Act, 1955 and one Sanctuary is notified under the Act as amended in 1991, but the final notification is yet to be issued. The remaining 8 National Parks and 32 Sanctuaries were notified from time to time under the Act prior to its amendment in 1991. In these National Parks and Sanctuaries, proceedings under Sections 19 to 25 of the Act were not taken to acquire the rights of the people. That is why they were not finally notified. The State Government could not have taken away the rights of the tribals and

villagers dependent on minor forest produce without acquisition of those rights after payment of compensation. It is for this reason that the final notification under Section 26A could not be issued unless provision for payment of compensation and rehabilitation were simultaneously made. So also, in regard to National Parks, the final declaration could not be issued under Section 35 of the Act for the same reason".

17. On a plain reading of these provisions, it is, therefore, obvious that the procedure in regard to acquisition of rights in and over the land to be included in a Sanctuary of National Park has to be followed before a final notification under Section 26A or Section 35(1) is issued by the State Government. In the instant case, it is not the contention of the petitioner that the procedure for the acquisition of rights in or over the land of those living in the vicinity of the areas proposed to be declared as Sanctuaries and National Parks under Section 26A and 35 of the Act has been undertaken. It was for this reason that the order of 28.3.1995 in terms stated that since no final notification was issued under the said provisions, the State Government was not in a position to bar the entry or villagers living in and around the Sanctuaries and the National Parks so long as their rights were not acquired and final notifications under the aforesaid provisions were issued. It is, therefore, not possible to conclude that the State Government had violated any provision of law in issuing the notification dated 28.3.1995".

17) The learned counsel relied on the decision of this Court in *Jaladhar Chakma and etc. etc. v. The Deputy Commissioner, Aizawl, Mizoram and others* (, AIR 1983 Gau 18)-

WP(C) 648/2013

18) The learned counsel for the petitioner in WP(C) 648/2013 has submitted that the documents produced by the petitioner disclose that they have been permitted to graze and they have paid the revenue to the government. Petitioners are exercising rights for the past 50 to 60 years. Therefore without payment of compensation they cannot be summarily evicted.

WP(C) 648/2013 35)

With regard to the contention of the petitioners it is submitted that the petitioners have only grazing rights and they are said to be residents of the sixth addition. The rights granted to them are only in the nature of licence and for a larger public interest petitioners are prevented from grazing. They cannot have any legal right. Petitioners can approach the competent authority to establish their rights for seeking compensation. In the inquiry to be conducted before issuance of the final notification the petitioners can participate and seek compensation. Hence the relief sought in the petition that they should not be

prevented until compensation is paid is untenable.

39) The individual claims for a handful of persons is in conflict with the public and national interest. There have been persistent and repeated reports of poaching of rhinoceros, elephants and other wild animals. It is irresistible inference that the habitants in KKP area would fall in suspect group and they would be well- acquainted with the areas and animal movements, therefore they would alone be in a position to do poaching successfully or abet poaching by others. The concept of national park in the Wild Life Act contemplates that there should be no human habitation.

40) Article 48-A of the Directive Principles of the Constitution of India mandates that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. Article 51-A(g) fastens the fundamental duties on the citizens to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.

41) In the face of the Constitutional obligations on the part of the State with a corresponding duty on the part of the citizens it would be highly untenable on the part of the petitioners to take technical pleas and expose the wild life to a great danger of extinction.

42) The Supreme Court in *Union of India and another v. Redappa and another*[(1993) 4 SCC 269] has laid down the following ratio.

"True the jurisdiction exercised by the High Court under Article 226 or the tribunal is not as wide as it is in appeal or revision but once the Court is satisfied of injustice or arbitrariness then the restriction, self imposed or statutory, stands removed and no rule or technicality on exercise of power, can stand in way of rendering justice".

43) In the instant case any rigid and technical view would only harm and endanger the wildlife of the KNP. The jurisdiction of this Court under 226 of the Constitution is quite wide. The petitioners who have approached this Court have no right over the land and their claims have been adjudicated. The fact that the final notification in respect of the 3rd and fifth additions is not issued is not a ground for the petitioners to overstay on the land when their claims are adjudicated. There is also provision under the Land Acquisition Act that in urgent situations the possession of land is taken and later on adjudication of compensation procedures are followed. In that view of the matter even if the final notification is not issued since the claims of the persons of third and fifth additions are adjudicated they cannot claim right to stay in the land. If the Court, as argued by the petitioners, takes a technical view it would only endanger the wildlife in the KNP and there would be unabatted acts of poaching. Hence

keeping in view the interests of the KNP, which is a World Heritage Site, we are not inclined to accept the contention of the petitioners.

44) It may be that the recommendation of the National Board is to be taken, still it is open to the government to approach the National Board for its approval. We don't think that the National Board can take any different view than the one taken by the government for expanding the area of the KNP. Keeping in view the larger interests of the public and the Constitution mandates, the claim of the petitioners in WP(C) 4860/2013 is held to be untenable and accordingly the writ petition is dismissed. Similarly the claim of the applicants in IA 1261/20 IS and 1262/2015 for the reasons stated above are dismissed. The claim of the petitioners in WP(C) 648/2013 is rejected. The Deputy Commissioners of Golaghat, Sonitpur and Nagaori are directed to take expeditious steps to evict the inhabitants in the second, third, fifth and as well the six additions of the Kaziranga National Park, including Deurchur Chang, Banderdubi and Palkhowa, within one month."

8. On a careful perusal of the judgment, it is found that the points, which are agitated in this proceeding had also been canvassed in earlier round of litigations and on hearing both the parties, this court answered all those allegations assigning reasons therefor.

9. One may also note here that the petitioners in WP(C) 648/2013 prayed for compensation in the event of their eviction of the land over which they had reportedly grazing right. In said proceeding, this court took note of said prayer and it also makes necessary recommendations, vide paragraph of the judgment, south to be reviewed. This clearly shows that the present proceeding has no merit whatsoever. In view of the above, we are of the clear opinion that the petitioners could not make out a case requiring this Court to review its earlier order and same is, accordingly, dismissed, however, without any cost.