

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. _____ OF 2026
(Arising out of SLP(Civil) No.23621/2023)

THE MARWARI PANCHAYAT, NAGAON (GOPAL GAUSHALA) Appellant(s)

VERSUS

KHAGORIJAN ANCHALIK KRISHAK Respondent(s)
SURAKSHA SAMITI & ORS

O R D E R

1. Leave granted.
2. The appellant would call in question the order passed by the Division Bench of the High Court dismissing the Writ Appeal which in turn, was preferred against the order passed by the learned Single Judge allowing the Writ Petition preferred by the respondent no.1 which laid challenge to the State Government's communication dated 06.10.1970 by which, the settlement of the subject land ad measuring 75 bighas, was approved in favour of the appellant for establishing a *Gaushala*. The allotment/ settlement was proposed by the Deputy commissioner on

11.09.1970 and this order was also challenged in the Writ Petition. The subject land is situated in Majorati VGR in Nizsahar Mouza, District-Nagaon (Assam).

3. Admittedly, the Writ Petition was preferred in the year 2011, i.e. after 41 years of the allotment vide communication dated 11.09.1970 issued by the Deputy Commissioner, and subsequently approved by the State Government vide communication dated 06.10.1970.

4. The only ground explaining delay in filing the Writ Petition was that the appellant started asserting rights over the subject land in the year 2010. Therefore, before that, the Writ Petitioner was not aware that the land has been allotted to the present appellant.

5. Basing this statement, the High Court proceeded to examine the matter on merits and allowed the Writ Petition mainly on the ground that before allotting the subject land to the appellant, the

mandate of Rule 95 A of the Rules under Assam Land and Revenue Regulation, 1886 (for short, 'the Grazing Rules'), has not been followed. According to the High Court, the allotment was made on 11.09.1970 and the same was approved by the State Government on 06.10.1970. However, the de-reservation was made only on 15.11.1972. Therefore, the allotment was made when the subject land was still treated as grazing land by the Government.

6. We have heard Mr. Vijay Hansaria, learned senior counsel appearing for the appellant, Mr. Tapan Ranjan Deuri, learned counsel appearing for respondent no.1 and Mr. Debojit Borkakati, learned counsel appearing for the State at length and perused the papers.

7. In our view, this appeal deserves to be allowed on more than one ground, firstly, Rule 95A of the Grazing Rules provides for de-reservation of land which is declared as grazing ground under the Rules. However, before de-reserving the

land, there has to be a procedure followed for reserving the land for allotment of grazing ground. Secondly, Rules for the Allotment of Grazing Grounds in Chapter-II of the Grazing Rules provides for steps to be taken and procedure to be followed for allotment of grazing grounds which, *inter alia* provides that for declaring any such land as grazing land, firstly, there has to be a survey and demarcation and thereafter publication of notice about Government's proposal to allot the land as grazing ground. Thereafter, the concerned officer, i.e. the Deputy Commissioner, has to hear objections and conclude the proceedings and issue a declaration under Rule 91 of the Rules. The said Rule 91 of the Grazing Rules is reproduced here for ready reference;

"91. Declaration of grazing grounds - As soon as the cost of demarcation has been deposited the Deputy Commissioner shall cause to be published in the manner prescribed in rule 85, a final notice declaring the land to be allotted as grazing ground. He shall also cause the grazing ground

to be entered in the register of grazing grounds and the boundaries thereof to be demarcated with such boundary-marks as may be required."

8. In the documents placed before this Court, there is no indication as to at which particular point in time, the subject land was declared as grazing ground. Even if the State Government later on de-reserved the land vide its order dated 15.11.1972, this order itself does not indicate that the land was reserved at a particular point in time. It seems that the de-reservation was made because some villagers started raising objections to the allotment of land to the appellant.

9. Be that as it may, the Writ Petition was filed after 40 years from the date of the allotment.

10. Learned State counsel would argue, supporting the appellant, that from the date of allotment till the date of filing of the Writ Petition, the appellant was exercising his rights as possession was delivered to the appellant on 02.04.1971 (Annexure P-7).

11. Thus, once the appellant was settled in possession in the year 1971 itself, a bald statement by the first respondent/ Writ Petitioner that the present appellant never asserted his rights over the land for 40 years is unbelievable.

12. For both the above reasons, i.e. in view of the provisions of Grazing Rules as also on the ground of delay in filing the Writ Petition, the High Court committed error of law by allowing the Writ Petition.

13. Accordingly, the appeal stands allowed. The impugned order passed by the High Court is set aside to hold that the appellant shall continue to enjoy the subject land on the basis of allotment made in its favour vide communication dated 11.09.1970 issued by the Deputy Commissioner, and subsequently approved by the State Government vide communication dated 06.10.1970.

14. Pending application(s), if any,
shall stand closed.

.....J.
(PRASHANT KUMAR MISHRA)

.....J.
(SHREE CHANDRASHEKHAR)

New Delhi
14-07-2026

ITEM NO.8

COURT NO.13

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 23621/2023

[Arising out of impugned final judgment and order dated 21-06-2023 in WA No. 74/2018 passed by the Gauhati High Court]

THE MARWARI PANCHAYAT, NAGAON (GOPAL GAUSHALA)

Petitioner(s)

VERSUS

KHAGORIJAN ANCHALIK KRISHAK SURAKSHA SAMITI & ORS.

Respondent(s)

Date : 14-07-2026 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA
HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

For Petitioner(s) :Mr. Vijay Hansaria, Sr. Adv.
Mr. Abhinav Hansaria, AOR
Ms. Nandini Rai, Adv.
Mr. Aashay Shukla, Adv.

For Respondent(s) :Mr. Tapan Ranjan Deuri, Adv.
Mr. Salvador Santosh Rebello, AOR
Mr. Anubhab Attreya, Adv.
Ms. Moulishree Pathak, Adv.
Mr. Nishant Kumar, Adv.

Mr. Debojit Borkakati, AOR

UPON hearing the counsel the Court made the following

O R D E R

1. Leave granted.
2. The appeal is allowed in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

(NISHA KHULBEY)
COURT MASTER(SH)

(AKSHAY KUMAR BHORIA)
COURT MASTER(NSH)

(signed order is placed on the file)