

17/11/18  
28/12/21

**DISTRICT:KAMRUP(M)**  
**IN THE GAUHATI HIGH COURT**  
**(The High Court of Assam, Nagaland, Mizoram and**  
**Arunachal Pradesh)**  
**(CIVIL EXTRA ORDINARY JURISDICTION)**

Filed By Respondent No.4 through  
Koustov Gogoi, Adv.  
Addl. Senior Government Advocate  
E.No.916/2005 -06

**IN THE MATTER OF:**

**WP(C)5534/2021**

Khalek Ali & another  
... Petitioners

-Vs-

State of Assam & Others  
.... Respondents

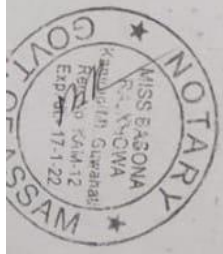
-AND-

**IN THE MATTER OF:**

An Affidavit-in-opposition filed by  
the Respondent No.4 i.e.  
Superintendent of Police, Darrang  
District.

**AFFIIDAVIT**

I, Mr. Rupam Phukan, Son of Sachindra Nath Phukan, aged about 42 years, serving as Addl. Superintendent of Police (HQ), Darrang, Office of the Superintendent of Police, Darrang, Mangaldai, Assam, Pin-784125, do hereby solemnly affirm and state as follows:

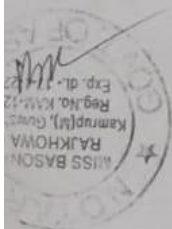


1. That I am presently serving as the Addl. Superintendent of Police (HQ), Darrang District and Superintendent of Police, Darrang District has been arrayed as Respondent No. 4 in the instant writ petition. A copy of the Writ Petition has been served to the Respondent No.4 by the Counsel of the Government. I have gone through the same and understood the contents thereof. I am fully acquainted with the facts and circumstances of the case. I have been duly authorized by the Respondent No. 4 to swear and sign this Affidavit. Hence, I am competent to swear and sign this affidavit

2. That the deponent denies each and every statements/allegation made in this Writ Petition except those which are specifically admitted herein this Affidavit. That the statements which are inconsistent and contrary to the records may be treated to have been denied by the answering deponent/ respondent.

3. That with regard to the statement made in paragraph 1, 2, 3, 4 and 5 of the writ petition the answering deponent offers no comment as the same are the matter within the knowledge of the petitioner.

4. That with regard to the statement made in paragraph 6 of the writ petition the answering deponent begs to state that on 22-09-2021 a letter was received from Circle Officer, Sipajhar Revenue Circle vide no. SPR/RC/(EVC).20/2015/784 dated 21-09-2021 seeking sufficient force to conduct eviction drive



smoothly as well as to maintain law and order situation at no.2 Dhalpur and no.3 Dhalpur where about more than 618 families are likely to be evicted.

Accordingly, Darrang District Police prepared a comprehensive Law and Order cum Security Plan for conducting the drive smoothly. Apart from keeping in readiness of existing forces under Darrang DEF, additional forces from other DEF's and Assam Police Battalions were also brought by issuing requisitions to the competent authorities.

On 23-09-2021 at about 11 am, an eviction drive was carried out by Darrang District Administration at Dhalpur area under Sipajhar P.S. against illegal encroachers. To conduct the drive smoothly, the area was divided into 4 (four) operational zones by the District Administration and entrusted to an Executive Magistrate as head of each zone along with one Gazatted Officer of Assam Police. While the drive was going on peacefully at Zone Nos 1, 2 & 4 suddenly, at Zone No. 3 i.e. Western most part of No.3 Dhalpur (where Smti Pallavi Kachari, ACS, Addl. Deputy Commissioner, Darrang was in-charge of the zone accompanied with Sri Sarat Gogoi, ALRS, Dalgaon Revenue Circle and Smti Olindita Gogoi, APS, Addl. SP (S&I), Nalbari who was in-charge of the Police force, about 2000/2500 encroachers gathered there by making an elongated bow formation and created nuisance and ruckus by shouting slogans against the District Administration and Govt. besides obstructing the police force on duty, they prevented excavators (JCB) & tractors



brought for the eviction drive by the Darrang District Administration. During the eviction process, Inspector General of Police (I&O), Assam, Guwahati, Deputy Inspector General of Police (CWR), Assam, Guwahati, Deputy Commissioner, Darrang, Additional Deputy Commissioner, Darrang including the undersigned were initially camped at temporary control room of Dhalpur Police Watch Post. On receipt of information of obstruction in Zone no. 3, the undersigned along with all senior officers mentioned above proceeded to zone no.3 to take stock of the situation. The undersigned also directed Addl. SP (JQ) and Dy. SP(HQ), Darrang who were camped at temporary control room at Moluaghat to proceed to Zone no.3 with available reinforcements. The District Administration led by the Deputy Commissioner, Darrang held discussion with leaders of the encroachers as well as leaders of AAMSU and assured them to meet all those demands which are within the ambit of power of the Deputy Commissioner. But, he gathered encroachers did not agree with the assurance of the District Administration officials and became unruly. Thereafter, the on-duty Executive Magistrate directed the encroachers to leave the place by using megaphone and also declared them unlawful assembly following all due procedures. At about 1.30 PM, the encroachers under the influence of their leaders attacked the Executive Magistrate and police personnel by equipping with deadly weapons like lathi (bamboo sticks with various sizes), dao (machete of various sizes), spear, broken bricks etc. In the meantime, as per the order of the Executive Magistrate, police used tear gas shells and



mild lathi charge upon the encroachers for dispersing them. But they became more aggressive and started pelting stones, bricks etc. upon the police personnel as well as officials of the District Administration and also attacked by deadly weapons. As a result, 08 nos. police personnel namely- (1) Amrit Raj Chaudhury, APS, ASCOM, 4<sup>th</sup> APBN, Kahilipara, Guwahati, (2) ABSI Mani Ahmed of 4<sup>th</sup> APBN, Kahilipara, Guwahati, (3) ABSI Narayan Sarmah of Darrang DEF, (4) ABC Pankaj Deka of Darrang DEF, (5) ASI Prasanna Deka of Darrang DEF, (6) CN Apurba Ranghang of 4<sup>th</sup> APB, Kahilipara, Guwahati, (7) WPC Nirmali Devi of Darrang DEF and (8) WPC Papori Das of Darrang DEF sustained injuries. As the situation deteriorated further, to save the life and public property, the police personnel on duty used rubber bullet, plastic cluster and ballistic cartridge to disperse the encroachers. After that the mob became more violent and attacked the police personnel from all sides by using deadly weapons. Then, getting no other way, police fired on air. But the encroachers did not leave the place. Thereby police resorted to control firing by aiming below the knee of the mob and was able to disperse the mob. While leaving the place, the encroachers set on fire themselves to their dwelling houses, jute crops, hayricks and fled away. The injured 8 nos police personnel as well as one encroacher were sent immediately to Sipajhar CHC for treatment where 3 nos police personnel referred to GMCH, Guwahati for better treatment. But the injured encroacher declared dead by the doctor of Sipajhar CHC. Later on the deceased encroacher identified as Moinul Hoque (45 years) S/O- Makbul Hussain @



P.S.- Sipajhar were also injured during the incident and they made their treatment at GMCH, Guwahati. Moreover, another police personnel namely ASI Prafulla Deka of Darrang DEF also got injury in the incident.

Moreover, the above mentioned case was endorsed to CID Organization, Guwahati for investigation by the Hon'ble DGP, Assam, Guwahati. Apart from the another case vide Sipajhar P.S. Case No. 773/2021 U/S 120(b)/143/147/148/ 149/341/333/353/325/326/307, IPC was also registered based on FIR filed by Abdul Karim of Aminpara, P.S.- Rowta, District- Udalguri and the case also entrusted to CID Organization, Guwahati for investigation by the Hon'ble DGP, Assam, Guwahati. Further, another case vide Sipajhar P.S. 813/2021 U/S 302/34 IPC was also registered based on FIR filed by relative of deceased Shakh Farid i.e. Md. Amir Hussain S/O- Md, Khalek Ali of Kirakara, P.S.- Sipajhar. In this regard, necessary communication has already been made with the Hon'ble DGP, Assam, Guwahati for handing over the case to CID Organization for investigation. The above noted cases are under investigation.

Further, it may also be mentioned here that the District Magistrate, Darrang has been ordered a Magisterial Enquiry into the circumstances leading to the death of civilians due to alleged police firing and entrusted to Smt. Subhalaxmi Deka, ACS, District Development Commissioner, Darrang.



5. That with regard to the statement made in paragraph 7 of the writ petition the answering deponent offers no comment as it is a matter of record.

6. That with regard to the statement made in paragraph 8, 9, 10 and 11 of the writ petition the answering deponent begs to state that it is same as mentioned in Paragraph 4 of this affidavit-in-opposition.

7. That with regard to the statement made in paragraph 12, 13, 14, 15, 16, 17, 18 and 19 of the writ petition the answering deponent offers no comment as it is a matter of record.

8. That with regard to the statement made in paragraph 20, 21 and 22 of the writ petition the answering deponent begs to state that it is same as mentioned in Paragraph 4 of this affidavit-in-opposition.

9. That with regard to the statement made in paragraph 23 and 24 of the writ petition the answering deponent offers no comment as it is a matter of record.

10. That with regard to the statement made in paragraph 25 and 26 of the writ petition the answering deponent begs to state that it is same as mentioned in Paragraph 4 of this affidavit-in-opposition.



11. That with regard to the statement made in paragraph 27, 28 and 29 of the writ petition the answering deponent offers no comment as it is a matter of record.

12. That with regard to the statement made in paragraph 30 of the writ petition the answering deponent begs to state that at no point of time the Deponent has acted discriminatory, unfair, injudicious, arbitrary and unreasonable manner towards the Petitioner. This Petition is not filed bonafide in the interest of justice. The Petitioner has not made out a case fit to be interfered by the Hon'ble Court involving extra-ordinary jurisdiction. Therefore, the instant Writ petition is liable to be dismissed.

13. That all the statements made in this Affidavit-in-Opposition are true to the best of my knowledge, belief since I have derived it from records which I believe to be true.

**"Oath"**

I swear, that this declaration is true, that it conceals nothing and that no part of it is false, so help me God.

And I sign this affidavit on this 07/12/2021 day of December, 2021 at Guwahati.

Identified by me,

*Rupam Phukan*  
DEPONENT



"Solemnly affirmed before me this day. I certify that I read over and explained the contents to the deponent and that the deponent seemed to understand and to have signed them."

*Mr. A.*  
7.12.21