

GAHC010013962013



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/7348/2013

FATIK ALI and 2 ORS.
S/O- ABBASH ALI

2: HASEN ALI
S/O- LT. MOFIZ UDDIN.

3: ABDUL JALIL
S/O- LT. MOFIZ UDDIN
ALL ARE R/O VILL.- AMGURI
MOUZA- RUPSHI
P.S.- KALGACHIA
DIST.- BARPETA
ASSAM

VERSUS

THE STATE OF ASSAM AND 9 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM, LAND
and REVENUE DEPTT., DISPUR, GHY- 6.

2:THE DY. COMMISSIONER
BARPETA
DIST.- BARPETA
ASSAM.

3:THE ADDL. DY. COMMISSIONER
BARPETA
DIST.- BARPETA
ASSAM.

4:THE SETTLEMENT OFFICER
BARPETA
DIST.- BARPETA
ASSAM.

5:THE CIRCLE OFFICER - CUM - ASSTT. SETTLEMENT OFFICER
KALGACHIA REVENUE CIRCLE
KALGACHIA
P.S.- KALGACHIA
DIST.- BARPETA
ASSAM.

6:RAIZUDDIN
S/O- LT. MAHAMMAD ALI.

7:AZMAT ALI
S/O- LT. MAHAMMAD ALI.

8:TAIZUDDIN
S/O- LT. MAHAMMAD ALI.

9:ANOWAR HUSSAIN
S/O- LT. MAHAMMAD ALI.

10:SARIFUL ISLAM
S/O- LT. HASHMAT ALI. RESPONDENTS NO. 6 TO 10 ARE R/O VILL.-
SAHPUR
MOUZA- TITAPANI
P.S.- KALGACHIA
DIST.- BARPETA
ASSAM
PIN

Advocate for the Petitioner : MR.M U MONDAL

Advocate for the Respondent : MRS.V L SINGH

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

21.09.2023

Heard Mr. M. U. Mondal, learned counsel for the petitioners. Also heard Ms. N. Bordoloi, learned Standing Counsel, Revenue Department, Assam appearing for the respondent No.1 and Mr. J. Handique, learned Addl. Senior Govt. Advocate, Assam appearing for the respondent Nos.2 to 5. Mr. A. M. Khan,

learned counsel is present on behalf of the respondent Nos.6 to 10.

The instant writ petition has been filed against the judgment and order dated 29.10.2013 passed by the Assam Board of Revenue, Guwahati in connection with Case No.42 RA(B)/2012 dismissing the appeal filed by the writ petitioners against the order dated 16.03.2012 passed by the Additional Deputy Commissioner, Barpeta in connection with Misc. Case No.1/2011-12 cancelling the Chitha Mutation earlier granted in favour of the petitioners and restoring the names of the private respondents in the land records in respect of land measuring 05 Bighas covered by Dag No.540/667 of P.P. No.228 of village Amguri under Rupsi Mouza under Rule 116 of the Assam Land and Revenue Regulation, 1886.

While dismissing the appeal, the learned Revenue Board has observed that the claim of the parties would have to be decided on the basis of finding of title and therefore, this was a matter which could be adjudicated only the Civil Court. After a careful reading of the order dated 29.10.2013, this Court does not find any infirmity in the views expressed by the learned Revenue Board.

It further appears from the materials available on record that the private respondents herein as plaintiffs have already instituted Title Suit No.239/2012 in the Court of learned Munsiff, Barpeta against the writ petitioners herein, praying for a decree declaring their right, title and interest over the suit land and also for recovery of khas possession and for permanent injunction. It further appears that the petitioners herein, who are the defendants in the Title Suit No.239/2012, are in possession of the land and they have also contested the suit by filing written statement. It is submitted at the bar that the suit is pending disposal before the learned Civil Court. If that be so, I do not find any justifiable ground

for this Court to interfere in the matter.

As such, this writ petition is hereby disposed of by providing that the rights and interest of the parties in respect of the land in question will be governed by the decree passed by the learned Civil Court in the proceeding noted herein above.

Parties to bear their own cost.

JUDGE

Comparing Assistant