

GAHC010011772023



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

Case No. : WP(C)/357/2023

AMPHU ENGTIPI
W/O- LATE ROBIN BRAHMA,
R/O- DILAJI, NEAR ASEB,
P.O- RONGKHELAN,
P.S- DIPHU, DIST- KARBI ANGLONG, ASSAM, PIN-782462

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, GOVT. OF
ASSAM, REVENUE DEPARTMENT, GUWAHATI, DISPUR-06.

2:THE KARBI ANGLONG AUTONOMOUS COUNCIL
REPRESENTED BY ITS PRINCIPAL SECRETARY
KARBI ANGLONG
DIPHU- 782460.

3:THE PRINCIPAL SECRETARY

KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG

4:THE JOINT SECRETARY
REVENUE
KARBI ANGLONG AUTONOMOUS COUNCIL
KARBI ANGLONG
DIPHU

5:THE DEPUTY COMMISSIONER
KARBI ANGLONG
DIPHU

6:THE NATIONAL HIGHWAY AUTHORITY
REP. BY ITS CHAIRMAN
DWARKA. SECTOR -10
DELHI

7:THE NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.

3RD FLOOR
PTI BUILDING
4

PARLIAMENT STREET
NEW DELHI

8:PELE KHEZHIE
S/O- LATE MHILUO KHEZHIE

R/O- VILLAGE D KHELKOHIMA

P.O AND P.S - KOHIMA
DIST- KOHIMA
NAGALAND
PIN-797003

9:M/S HANUMAN TEA CO. LTD.
A COMPANY INCORPORATED UNDER THE PROVISIONS OF THE
COMPANIES ACT
1956.
HAVING ITS REGISTERED OFFICE AT 234/3A

AJC
BOSE ROAD
CALCUTTA
WEST BENGAL
KOLKATA-48

10:ALL ASSAM CENTRAL ENVIRONMENT AND FOREST PROTECTION
REP. BY ITS
REP. BY ITS PRESIDENT AND HAVING ITS REGISTERED OFFICE AT
DILLAJI
NEAR ASEB

P.O AND P.S- DIPHU
KARBI ANGLONG
ASSAM

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : SC, K A A C

Linked Case : WP(C)/661/2023

PELE KHEZHIE
S/O- LT. MHILUO KHEZHIE

R/O- VILLAGE- D KHEL
KOHIMA

P.O. AND P.S. - KOHIMA

NAGALAND- 797003

DIST.- KOHIMA
NAGALAND.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM

DISPUR
GUWAHATI- 781006.

2:THE KARBI ANGLONG AUTONOMOUS COUNCIL (KAAC)
REPRESENTED BY ITS PRINCIPAL SECRETARY

DIPHU
KARBI ANGLONG.
3:THE JOINT SECRETARY
REVENUE
KARBI ANGLONG AUTONOMOUS COUNCIL (KAAC)

DIPHU
KARBI ANGLONG.
4:THE NATIONAL HIGHWAY AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.
3RD FLOOR
PTI BUILDING

PARLIAMENT STREET
NEW DELHI- 110001.
5:THE DEPUTY COMMISSIONER
KARBI ANGLONG
DIPHU.
6:THE SUB-DIVISIONAL OFFICER (CIVIL)
BOKAJAN.
7:THE SUPERINTENDENT OF POLICE
KARBI ANGLONG
DIPHU.

Advocate for : MR. D BORAH
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

21.08.2023

Heard Mr. K. N. Choudhury, learned senior counsel assisted by Mr. D. K. Bora, learned counsel appearing for the writ petitioner in WP(C) No.357/2023. Also heard Mr. D. Borah, learned counsel for the petitioner in WP(C) No.661/2023, who is also the respondent No.8 in WP(C) No.357/2023.

2. Ms. G. Hazarika, learned Standing Counsel, Revenue Department, Assam is present on behalf of respondent No.1, Mr. J. Chutia, learned Standing Counsel, KAAC, is present on behalf of respondent Nos.2, 3 and 4, Mr. H. Sarma, learned Addl. Senior Govt. Advocate, Assam is present on behalf of respondent No.5, Mr. R. K. Talukdar, learned Standing Counsel, NHIDCL is present on behalf of respondent No.7 and Mr. A. Ganguly, learned counsel is present on behalf of respondent No.10.

3. The petitioner is WP(C) No.357/2023 is the wife of Late Robin Brahma, who is aggrieved due to non-consideration of her application seeking mutation

in respect of land falling in the two Tea Estates purchased by her deceased husband during his lifetime viz., Lahorijan Tea Estate and Nirmal Kumar Tea Estate. The original owner of both the Tea Estates was M/S Hanuman Tea Company Limited, which is impleaded as respondent No.9 in WP(C) No.357/2023. It appears that the respondent No.8 herein, who is also the writ petitioner in WP(C) No.661/2023, had filed objection opposing the prayer for grant of mutation made by the writ petitioner in WP(C) No.357/2023 *inter-alia* contending that a part of the land owned by him has been encroached by miscreants and therefore, unless the encroachment over his land is freed by the authorities, granting mutation in favour of the applicant viz., Smti. Amphu Engtipi would cause injury to his interest over the adjoining land.

4. Mr. K. N. Choudhury, learned senior counsel for the petitioner has strenuously argued that despite the lapse of nearly one year since his client had submitted an application under Section 2 of the Assam Land & Revenue Regulation, 1886 seeking mutation of her name over the land in question, no order has been passed on the said application till today for no valid reason.

5. Mr. J. Chutia, learned Standing Counsel, KAAC, on the other hand, submits that the delay has been caused due to non-furnishing of original documents by the contesting parties inasmuch as even the writ petitioner in WP(C) No.357/2023 had sought time before the authorities to place the original documents. According to Mr. Chutia, if some time is granted, the entire facts will be placed before this Court in the form of an affidavit.

6. Mr. Choudhury has, however, refuted the said submission by contending that on a few occasions the Presiding Officer was absent although the petitioner was present with the relevant documents.

7. Be that as it may, after hearing the submissions made at the bar, this Court finds that the basic grievance of the petitioner in WP(C) No.357/2023 is on account of the fact that her application seeking mutation over the Tea Estates' land, has not been acted upon by the authorities till today. As noticed above, the respondent No.8 in WP(C) No.357/2023 i.e. the writ petitioner in WP(C) No.661/2023 has filed objection opposing the prayer for mutation on the grounds cited therein, which objection will also have to be dealt with as per law.

8. Be that as it may, since an aggrieved party has approached the concerned authority seeking mutation over the plot of land which she claims to be the property of her deceased husband, whatever be the outcome of the prayer made in the application for mutation, the competent authority would be required to pass an order therein, based on the documents placed before it by the contesting parties. Even if one of the parties to the proceeding, fails to produce certain document as called for, that by itself cannot be a ground to delay an order on the application, particularly when there is urgency expressed in the matter by the applicant.

9. In view of the above, without expressing any opinion on the merits of the claims and counter-claims of the parties and as agreed to by the learned counsel for both the sides, both these writ petitions are being disposed of by granting 10 (ten) weeks time from today to the respondent No.4 i.e. the Joint Secretary, Department of Revenue, KAAC, Diphu to pass appropriate order on the application dated 22.09.2022 submitted by the petitioner in WP(C) No.357/2023 for mutation. Before passing any order, the objection filed by the respondent Nos.8 and 10 shall also be taken note of. It is made clear that it

would be open for the concerned authority to pass appropriate order on the application seeking mutation based on the materials available on record on the date of passing the order. Facilitating the above, the contesting parties are directed to cooperate with the authorities by producing all the relevant documents as may be called for.

With the above observations, both the writ petitions stand disposed of.

JUDGE

Comparing Assistant