

GAHC010046612023



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

Case No. : WP(C)/1574/2023

KUTULAL RAY AND ANR
S/O- LATE LABANYA RAY ,
R/O- VILLAGE BORPANI, DAKHIN JHAR BAGAN,
P.O- BORPANI, P.S- KACHUA, DIST- NAGAON, ASSAM

2: RATAN RAY
S/O- LATE LABANYA RAY

R/O- VILLAGE BORPANI
DAKHIN JHAR BAGAN

P.O- BORPANI
P.S- KACHUA
DIST- NAGAON
ASSA

VERSUS

UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA MINISTRY OF HOME
AFFAIRS, NEW DELHI- 110001.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

3:THE SUPERINTENDENT OF POLICE (B)
DIST- NAGAON
ASSAM
PIN-782001

4:THE DEPUTY COMMISSIONER

NAGAON
ASSAM
PIN-782001

5:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI-110001

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
ACHYUT PLAZA
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M

Advocate for the Petitioner : MR P C DEY
Advocate for the Respondent : DY.S.G.I.

BEFORE

**HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN**

O R D E R

12.04.2023

(A.M. Bujor Barua, J)

Heard Mr. PC Dey, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Mr. J Payeng, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. T Pegu, learned counsel for the Election Commission of India and Mr. PK Medhi, learned counsel for the Deputy Commissioner, Nagaon.

2. A notice had been issued by the Foreigners Tribunal No. 2, Nagaon in FT Case No. 372/2008 to Kritilal Ray son of Pradunya Ray of village Borapani Colony, but the notice had been served on the petitioner proceedee Kutulal Ray son of Labanya Ray of the same village Borapani Colony.

3. In the written statement, the petitioner had brought it to the notice of the

Tribunal that although the notice was issued to Kritilal Ray son of Pradunya Ray of village Borapani Colony, but it was served to the petitioner proceedee Kutulal Ray son of Labanya Ray of village Borapani Colony. The Tribunal ignored the said stand taken by the petitioner proceedee and proceeded against the petitioner Kutulal Ray son of Labanya Ray resulting in the order dated 20.11.2017 by which Kutulal Ray son of Labanya Ray had been declared to be a foreigner.

4. This issue of a notice being issued to one person and it being served on another person and the proceeding being continued against the other person has been decided by this Court in its judgment and order dated 11.04.2023 in WP(C) No. 914/2017, wherein it had been held that such a proceeding would be vitiated.

5. Accordingly, the order dated 21.11.2017 in FT Case No. 374/2008 in respect of Kutulal Ray son of Labanya Ray of village Borapani Colony in the Nagaon district is set aside. However, it is provided that if the respondents are of the view that the proceeding is to be initiated against Kutulal Ray son of Labanya Ray of village Borapani Colony of Nagaon district, liberty remains to do so by issuing appropriate notice and serving it to him. On the other hand, if the respondents are of the view that Kritilal Ray son of Pradunya Ray of village Borapani Colony is also to be proceeded, liberty remains to proceed against him by following the due procedure of law.

6. The writ petition is allowed as indicated above.

JUDGE

JUDGE

Comparing Assistant