

GAHC010048342022



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

Case No. : WP(C)/1749/2022

BIJOY KRISHNA DAM
S/O- LATE ANIL RANJAN DAM, RESIDENT OF LONGAI ROAD, WARD NO. 2
(OLD)/3 (NEW), P.O. SETTLEMENT ROAD, DISTRICT.- KARIMGANJ, ASSAM,
PIN- 788712.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, HOUSING AND URBAN AFFAIRS DEPARTMENT, DISPUR,
GUWAHATI-781006.

2:THE DEPUTY COMMISSIONER
KARIMGANJ
ASSAM

3:THE CIRCLE OFFICER
KARIMGANJ
ASSAM

4:THE EXECUTIVE OFFICER
KARIMGANJ MUNICIPAL BOARD
KARIMGANJ
ASSAM

5:THE CHAIRMAN

KARIMGANJ DEVELOPMENT AUTHORITY
KARIMGANJ.

6:GOBINDA DEB
S/O- LATE GAJENDRA CH. DEB

R/O- LONGAI ROAD
OPPOSITE SBI ATM
WARD NO. 02(OLD)/03(NEW)
KARIMGANJ
ASSA

Advocate for the Petitioner : MR. S BANIK

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 20.01.2023

Heard Mr. S. Banik, learned counsel for the petitioner. Also heard Mr. S. Baruah, learned counsel for the respondent nos. 2, 3 & 4 and Mr. F. U. Barbhuiya, learned counsel for the respondent no.6.

2. As per the order passed on 03.08.2022 in the proceedings of Lawazima Court, notice is duly served upon the respondent no. 5. None appears on call for the respondent no.5.

3. In view of the stand taken by the respondent no.6 in the affidavit-in-opposition filed on 31.08.2022, on a specific query of the Court Mr. F. U. Barbhuiya, learned counsel for the respondent no. 6 namely, Gabinda Deb, has categorically submitted that his client Gabinda Deb is not the owner of the property in question. It is submitted that the owner of the house was his deceased wife, namely, Subha Rani Deb and after her death he is not the owner of the property.

4. In view of such categorical statement, this Court is inclined to record that Sri Gabinda Deb (respondent no.6) is not a party who may be aggrieved by

any order that is passed in this proceeding as he does not claim ownership right over the property of his deceased wife. Therefore, the name of respondent no. 6 is struck off. Registry to do the needful.

5. The grievance of the petitioner in the present case is to the effect that the respondent authorities, i.e. respondent nos. 4 & 5 who are competent authorities to examine any unauthorized construction carried out within their jurisdiction was approached by the petitioner against the alleged unauthorized construction being carried out in the property of the wife of Gabinda Deb. To that effect, complaint dated 22.11.2021 was submitted by the petitioner to the Executive Officer, Karimganj Municipality (respondent no. 4) as well as to the Circle Officer, Karimganj allegedly unauthorized construction being carried out by the said Gabinda Deb. As the said authorities have not taken any action thereon, the present writ petition has been filed under Article 226 of the Constitution of India.

6. As the said, Gobinda Deb (erstwhile respondent no.6) has denied any ownership over construction allegedly carried out over the property earlier owned by his deceased wife, in the considered opinion of this Court, the ends of justice would be met to allow the petitioner the liberty to file a representation before the Executive Officer, Karimganj Municipality Board, respondent no. 4 for examining the grievance of the petitioner, which was previously raised by his complaint of the petitioner dated 22.11.2021. On the fresh representation being submitted within 10 (ten) days from the date of this order, the Executive Officer shall hear the petitioner and the concerned owner of the construction which is being made by the deceased wife of Gabinda Deb (erstwhile respondent no. 6) and dispose of the said representation of the petitioner within a period of six weeks from the date of receipt of certified copy

of this order.

7. The petitioner shall produce a certified copy of this order before the respondent no. 4 to bring to the notice of the said authority.

8. Writ petition stands disposed of.

JUDGE

Comparing Assistant