

GAHC010054252019



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

Case No. : WP(C)/2219/2019

1. ABDUL HOQUE AND 3 ORS.
S/O- LT SURAJ ALI, R/O- VILL- SILPUKHURI, P.S. MIKIRBHETA, P.O.
SILPUKHURI, DIST- MORIGAON (EARLIER NNAGAON DISTRICT) ASSAM,
PIN- 782123

2: MUSSTT. AMINA KHATUN
D/O- LT SAHED ALI
W/O- MD. ABDUL HOQUE
R/O- VILL- SILPUKHURI
P.S. MIKIRBHETA
P.O. SILPUKHURI
DIST- MORIGAON (EARLIER NNAGAON DISTRICT) ASSAM
PIN- 782123

3: SULTANA BEGUM
D/O- ABDUL HOQUE
R/O- VILL- SILPUKHURI
P.S. MIKIRBHETA
P.O. SILPUKHURI
DIST- MORIGAON (EARLIER NNAGAON DISTRICT) ASSAM
PIN- 782123

4: MD. SADDAM HUSSAIN
S/O- ABDUL HOQUE
R/O- VILL- SILPUKHURI
P.S. MIKIRBHETA
P.O. SILPUKHURI
DIST- MORIGAON (EARLIER NNAGAON DISTRICT) ASSAM
PIN- 78212

VERSUS

1. THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, DEPTT. OF HOME AFFAIRS,

NEW DELHI, INDIA, PIN- 01

2:THE STATE OF ASSAM
REP. BY THE SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR- 781006

3:FOREIGNERS TRIBUNAL
MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782105

4:THE ELECTION COMMISSION OF INDIA
REP. BY THE ELECTION OFFICER
MORIGAON
ASSAM- 782105

5:NATIONAL REGISTER OF CITIZENS
ASSAM
REP. BY THE STATE COORDINATOR
1ST FLOOR
ACHYUT PLAZA
BHANGAGARH
GHY
ASSAM- 781007

6:THE DY. COMMISSIONER
MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782105

7:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
ASSAM
PIN- 78210

Advocate for the Petitioner : MD. M H CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

JUDGMENT

Date : 13-03-2023

(AM Bujor Barua, J)

Heard Mr. MH Choudhury, learned counsel for the petitioners. Also heard Ms. L. Devi, learned counsel for the respondent No.1 being the Union of India as well as respondent No.5 being the authorities under the NRC, Ms. A Verma, learned Special Standing Counsel, Foreigners' Tribunal for respondents No. 2, 3 and 7, Mr. A.I. Ali, learned counsel for the respondent No.4 being the Election Commission of India, and Ms. U. Das, learned Government Advocate for the respondent No.6 being the Deputy Commissioner, Morigaon.

2. The petitioners, namely, Abdul Hoque, Musst. Amina Khatun, Ms. Sultana Begum and Md. Saddam Hussain were referred to the Foreigners' Tribunal No.3, Morigaon for rendering an opinion as to whether they are persons who had entered the State of Assam from the specified territory subsequent to 25.03.1971, resulting in the registration of F.T. Case No.44/2015.

3. By the order dated 27.06.2018, in F.T. Case No.44/2015 an opinion was rendered by the Foreigners' Tribunal No.3, Morigaon that the petitioners are the persons who had entered the State of Assam from the specified territory subsequent to 25.03.1971.

4. In the Writ Proceeding, the petitioners relied upon the Sale Deed No.9516/58, dated 31.12.1958, where Md. Suraj Ali, Son of Md. Miya Chand, resident of Village Silpukhuri, Mouza – Silpukhuri, Police Station Laharighat was

the seller of the land. The petitioners also relied upon the Voters List of 1966 of Village Silpukhuri, Mouza – Silpukhuri, Police Station Laharighat, which contains the name of Suraj Ali, Son of Miyasan at Sl. No.154 and that of Aimola Khatoon, wife of Suraj Ali at Sl. No.155. Petitioners also refers to a Sale Deed dated 30.12.1993, where Abdul Hoque, Son of Suraj Ali, resident of Village Silpukhuri, Mouza – Silpukhuri, Police Station Mikirbheta is a purchaser of a plot of land. By referring to the two Sale Deeds as well as the Voters List of 1966, the petitioners claim that they could establish their link with Suraj Ali of Village Silpukhuri and therefore, are also citizens of India.

5. In the circumstance, the matter is remanded back to the Foreigners Tribunal No.3, Morigaon, to examine as to whether the Sale Deed No.9516/58, dated 31.12.1958, the Voters List of 1966 of Village Silpukhuri, Mouza – Silpukhuri, Police Station Laharighat and the subsequent Sale Deed dated 30.12.1993, which is also in respect of a plot of land in Village Silpukhuri can establish that the petitioners are citizens of India.

6. The petitioners to appear before the Tribunal on 18.04.2023. In the event, a reasoned is passed in favour of the petitioners, the same would prevail over the order dated 27.06.2018, rendered in F.T. Case No.44/2015, by the learned Member, Foreigners' Tribunal No.3, Morigaon and if it is against them, the implications under the law may follow.

7. Till the reasoned order is passed no coercive action be taken against the petitioners.

8. The petition stands allowed as indicated above.
9. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant