

GAHC010114272023



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

Case No. : I.A.(Civil)/1456/2023

MRINAL KANTI ROY,
S/O- LATE MANIKLAL ROY, R/O- LC ROAD, KARIMGANJ TOWN, P.O., P.S.
AND DIST. KARIMGANJ, ASSAM, PIN-788710.

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF HOUSING AND URBAN AFFAIRS, JANATA
BHAWAN, DISPUR, ASSAM

2:THE DIRECTOR

MUNICIPAL ADMINISTRATION
ASSAM
DISPUR
GUWAHATI-781006.

3:THE DEPUTY COMMISSIONER

KARIMGANJ DISTRICT
KARIMGANJ
ASSAM

4:THE KARIMGANJ MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
P.O.
P..S AND DIST. KARIMGANJ
PIN- 788710
ASSAM

5:THE CHAIRMAN

KARIMGANJ MUNICIPAL BOARD
P.O.
P.S. AND DIST. KARIMGANJ
PIN- 788710
ASSAM

6:THE EXECUTIVE OFFICER
KARIMGANJ MUNICIPAL BOARD
P.O. P.S. AND DIST. KARIMGANJ
ASSAM
PIN- 788710.

7:THE SUPERINTENDENT OF POLICE
KARIMGANJ DISTRICT
KARIMGANJ
ASSAM-788710.

8:RAMONI MOHAN MUNICIPAL MARKET COMMITTEE
(SANTAR BAZAR)
REPRESENTED BY THE PRESIDENT
KARIMGANJ TOWN
KARIMGANJ TOWN
WARD NO. 19 (OLD)/22 (NEW)
PIN- 788710

Advocate for the Petitioner : MR. D DAS SR. ADV

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 29-05-2023

Heard Mr. S. Khound, learned counsel for the applicant as well as Mr. M. Chetia, learned Govt. Advocate for the opposite party nos.1, 2, 3 and 7. None appears on call for the opposite party nos.4, 5 and 8.

2. As it appears from the order dated 03.05.2023 passed in the proceedings of the Lawazima Court in the connected writ petition.

3. This IA has been filed by the applicant who is the writ petitioner with a prayer to stay the impugned NIT dated 20.05.2023 for a settlement of the Ramani Mohan Municipality Market under Karimganj district.

4. The learned counsel for the applicant has submitted that the applicant is the lessee of the said market for the year 2022-23. It is projected that during the said period the traders of the said market have refused to pay toll to the petitioner for which the petitioner could not run/operate the said market. It is also projected that the applicant has moved the respondent authorities for refund of an amount of Rs.4,75,000/- to the petitioner along with interest and compensation. In the connected writ petition, the petitioner has also made an alternative prayer to allow him to operate the said market for another year i.e. 2023-24 in terms of section 148(3) of the Assam Municipal Act, 1956, in lieu of money deposited in the year 2022-23.

5. The learned Govt. Advocate has submitted that as per instructions received by him the traders of the said Ramani Mohan Municipality Market had refused to cooperate with the petitioner as he was seeking more than the prescribed toll.

6. Be that as it may, the stand of the opposite parties being not made by filing an affidavit, hence the Court cannot take cognizance of such submission made by the learned Govt. Advocate.

7. Nonetheless, in the considered opinion of the Court the petitioner

would not be entitled to any interim order, moreover if the case of the petitioner is that the traders of the said Ramani Mohan Municipality Market are not cooperating with him in taking the toll, the Court finds no reason for the petitioner to seek an extension for the period of relief for another year.

8. Accordingly, on both the accounts mentioned hereinbefore, the Court does not find the petitioner to be entitled to any interim order for deferment of any tender proceedings, initiated for the said market. Nonetheless, this order would not prejudice the petitioner to seek an early decision of the respondent authorities on the prayer for refund of Rs.4,75,000/- for the year 2022-23.

9. Accordingly, this IA stands disposed of.

JUDGE

Comparing Assistant