

GAHC010122332012



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

WRIT PETITION (C) No. 4622/2012

- 1) Haresh Dutta, S/o Sri Khireswar Dutta
- 2) Sri Munindra Nath Gogoi, S/o Lt. Kanak Chandra Gogoi
- 3) Sri Mahendra Konwar, S/o Sri Narendra Nath Konwar
- 4) Md. Jamal Uddin Ahmed, S/o MD. Dilian Ali
- 5) Sri Kirti Konwar, S/o Sri Narendra Nath Konwar

All Are Residents of No. 1 Sorupathar Gaon Moran, Khatkhathi,
Mouza- Moran, P.O. Moran, District- Dibrugarh, Assam.

.....Petitioners

-Versus-

- 1) Assam Board of Revenue, Having its Office at Panbazar,
Guwahati - 781001, represented by its Chairman.

On the death of Sri Ram Gopal Garodia, his legal heirs,
namely,

- 2) Smti Tulsi Devi Garodia [Wife]
- 3) Sri Binod Kumar Garodia [Son]

- 4) Sri Basanta Kumar Garodia [Son]
- 5) Smti. Sarita Devi Bajoria [Daughter]
- 6) Smti. Sangita Devi Agarwal [Daughter]
- 7) Sri Bimal Kumar Garodia [Son]
R/o Jyoti Nagar, P.S. Dibrugarh, District - Dibrugarh,
Assam
- 8) The Additional Deputy Commissioner, Dibrugarh,
District - Dibrugarh, Assam.
- 8A) The Deputy Commissioner, Dibrugarh, District-
Dibrugarh, Assam
- 8B) The Circle Officer, Moran Revenue Circle, Moran,
District – Dibrugarh, Assam
- 9) Md. Sheikh Amanullah, S/o Lt. Mamud Ahmed
R/o No. 1 Sorupathar, P.O. Moran, Dibrugarh.
- 10) Md. Tultul Ahmed, S/o Lt. Mamud Ahmed R/o No. 1
Sorupathar, P.O. Moran, District - Dibrugarh, Assam.
- 11) Sheikh Abdullah, S/o Lt. Mamud Ahmed R/o No. 1
Sorupathar, P.O. Moran, District - Dibrugarh, Assam.
- 12) Musstt. Nurjahan Begum, W/o Lt. Mamud Ahmed R/o
No. 1 Sorupathar, P.O. Moran, District - Dibrugarh,
Assam.

.....Respondents

Advocates :

Petitioners	:	Mr. C. Baruah, Advocate
Respondent no. 1	:	Mr. A. Bhattacharjee, Standing Counsel, Revenue & Disaster Management Department
Respondent nos. 2 - 7	:	Mr. G.N. Sahewalla, Senior Advocate Mr. T.J. Sahewalla, Advocate

Respondent nos. 8, 8A & 8B : Ms. M. Barman, Junior Government Advocate, Assam

Date of Hearing, Judgment & Order : 03.08.2023

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY
JUDGMENT & ORDER [ORAL]

Heard Mr. C. Baruah, learned counsel for the petitioners; Mr. A. Bhattacharjee, learned Standing Counsel, Revenue & Disaster Management Department for the respondent no. 1; Mr. G.N. Sahewalla, learned senior counsel assisted by Mr. T.J. Sahewalla, learned counsel for the respondent nos. 2 – 7; and Ms. M. Barman, learned Junior Government Advocate, Assam for the respondent nos. 8, 8A & 8B.

2. The instant writ petition under Article 226 of the Constitution of India is preferred to challenge a common Judgment dated 01.11.2010 passed by the Board of Revenue, Assam in three revenue appeals, [i] Case no. 151RA[DIB]/2006; [ii] Case no. 152RA[DIB]/2006; & [iii] Case no. 153RA[DIB]/2006, and Orders, all dated 21.08.2006, passed in three mutation appeals, [i] Mutation Appeal Case no. DRP 18/2006; [ii] Mutation Appeal Case no. DRP 19/2006; & [iii] Mutation Appeal Case no. DRP 20/2006.
3. The 5 [five] petitioners have joined together to prefer the writ petition on the premise that they have common cause of action. The facts projected by the petitioners are, in brief, as follows :-
 - 3.1. The petitioner no. 1 purchased a plot of land measuring 1 Bigha out of 8 Bighas 6 Lessas, covered by Dag no. 86 & Periodic Patta no. 3, located at Village – No. Sarupathar Gaon, Mouza – Moran, District – Dibrugarh, by a registered Sale Deed dated 15.05.1998 after obtaining due permission from the respondent authorities on 04.05.1998.
 - 3.2. The petitioner no. 2 purchased a plot of land measuring 1 Bigha 0 Katha 11 Lessas out of 17 Bighas 2 Kathas 9 Lessas, covered by Dag no. 89 & Periodic Patta no. 35, located at Village – No. 1 Sarupathar Gaon, Mouza – Moran, District – Dibrugarh, by a registered Sale

Deed dated 07.01.1998 after obtaining due permission from the respondent authorities on 24.12.1997.

- 3.3. The petitioner no. 3 purchased a plot of land measuring 3 Kathas 10 Lessas out of 17 Bighas 2 Kathas 9 Lessas, covered by Dag no. 89 & Periodic Patta no. 35, located at Village – No. 1 Sarupathar Gaon, Mouza – Moran, District – Dibrugarh, from the proforma respondent no. 10 by executing a registered Sale Deed dated 04.01.1999 after obtaining due permission from the respondent authorities on 19.12.1998.
- 3.4. The petitioner no. 4 purchased a plot of land measuring 1 Bigha out of 17 Bighas 2 Kathas 9 Lessas, covered by Dag no. 89 & Periodic Patta no. 35, located at Village – No. 1 Sarupathar Gaon, Mouza – Moran, District – Dibrugarh, by a registered Sale Deed dated 13.12.1999 after obtaining due permission from the respondent authorities on 09.12.1999.
- 3.5. The petitioner no. 5 purchased a plot of land measuring 3 Kathas, covered by Dag no. 89 & Periodic Patta no. 35, located at Village – No. 1 Sarupathar Gaon, Mouza – Moran, District – Dibrugarh, by a registered Sale Deed dated 07.01.1998 after obtaining due permission from the respondent authorities on 24.12.1997.
4. It is the case of the petitioners that after purchasing their respective plots of land, they had taken possession of the same and their names were duly mutated in the revenue records. They had constructed dwelling houses thereon and have since been living there by paying land revenue till date. Notices dated 23.07.2012 were issued by the respondent no. 8, that is, the Additional Deputy Commissioner [Revenue] Dibrugarh to the petitioners, whereby, they were asked to appear before him in connection with Mutation Appeal no. 19/2006 in relation to a plot of land measuring 6 Bighas 0 Kathas 9 Lessas, covered by Dag no. 86 & Periodic Patta no. 3, located at Village – No. 1 Sarupathar Gaon, Mouza – Moran, District – Dibrugarh and Mutation Appeal no. 20/2006 in relation to a plot of land measuring 9 Bighas 2 Kathas 9 Lessas, covered by Dag no. 86 & Periodic Patta no. 3, located at Village – No. 1 Sarupathar Gaon, Mouza – Moran, District – Dibrugarh. On enquiry, the petitioner came to know that the Mutation Appeal no. 19/2006 and Mutation Appeal no. 20/2006 are registered on the basis of an application made by the respondent nos. 2 – 7, who are the legal representatives of one Late Ram Gopal Garodia.

5. Before any dilation on the nature of challenge made by the petitioners, it is apposite to narrate the background facts at this stage.
- 5.1. One Ram Gopal Garodia was the predecessor-in-interest of the respondent nos. 2 – 7. In the three revenue appeals, Case no. 151RA[DIB]/2006; Case no. 152RA[DIB]/2006; & Case no. 153RA[DIB]/2006 before the Board of Revenue, Assam, Ram Gopal Garodia challenged Orders, all dated 21.08.2006, passed by the Additional Deputy Commissioner, Dibrugarh in three mutation appeals, that is, [i] Mutation Appeal Case no. DRP 18/2006; [ii] Mutation Appeal Case no. DRP 19/2006; & [iii] Mutation Appeal Case no. DRP 20/2006.
- 5.2. The said appeals were filed with the following narration of facts : that he [Ram Gopal Garodia] was the absolute owner of parcels of land measuring 32 Bighas 3 Kathas 13 Lessas covered by different Dags and Pattas, located Village – No. 1 Sarupathar Gaon, Mouza – Moran, District – Dibrugarh after purchase from one Abdur Rahman on 09.02.1956. It was asserted that after purchase, he got delivery of possession of those parcels of land and since then, he had been in possession of the same after getting mutation of the parcels of land in his favour in the concerned revenue records. Thereafter, Ram Gopal Garodia allowed one Tamjid Ali to cultivate the said parcels of land on certain arrangements and said Tamjid Ali cultivated the land till 1963. After 1963, Tamjid Ali handed over the possession of the parcels of land to Ram Gopal Garodia again. Ram Gopal Garodia thereafter, rented out the parcels of land to one Wajid Hussain on rent but Wajid Hussain returned back the possession of the parcels of land to Ram Gopal Garodia in the year 1966. Ram Gopal Garodia was, at that time, working in M/s Debi Tea Estate till 1967 and as such, he could not manage time to look after the parcels of land. One Seikh Mahmud had, in the meantime, made trespass into the parcels of land and illegally occupied the same. When Seikh Mahmud sought to establish his credential as an occupancy tenant on the premise that he was in possession of the parcels of land since 1951 under its erstwhile owner, Ram Gopal Garodia instituted a title suit, Title Suit no. 178/1982 for recovery of khas possession of the parcels of land measuring 32 Bighas 3 Kathas 13 Lessas.
- 5.3. The Court of learned Munsiff, Sadar, Dibrugarh dismissed the title suit preferred by Ram Gopal Garodia. The title appeal preferred by Ram Gopal Garodia against dismissal of the title suit earlier was also dismissed by the Court of learned Additional District Judge,

Dibrugarh. Aggrieved thereby, Ram Gopal Garodia preferred a second appeal before this Court which was registered and numbered as Second Appeal no. 187/1996. By the Judgment and Order dated 23.07.2002, the High Court allowed the second appeal, Second Appeal no. 187/1996 in favour of Ram Gopal Garodia.

- 5.4. Ram Gopal Garodia on the basis of the said Judgment, filed an execution case being Title Execution Case no. 20/2003, before the Court of learned Civil Judge, Junior Division, Dibrugarh for execution of the decree. In the execution case, the Circle Officer, Moran Revenue Circle was directed to depute Lot Mondal of Sarupathar Gaon to identify the boundaries of the parcels of land measuring 32 Bighas 3 Kathas 13 Lessas so that the Civil Nazir could execute the decree and hand over possession of the decreed parcels of land to Ram Gopal Garodia. On 22.05.2004, when the Civil Nazir along with police personnel and Lot Mondal, etc. visited the site for execution of the decree, some of the petitioners herein prevented them from doing the same by asserting that their names were mutated in the *Jamabandi* [Records-of-Right] and on that strength, they were enjoying possession of the parcels of land.
- 5.5. It was subsequent to the events which occurred on 22.05.2004, Ram Gopal Garodia stated to have learnt upon enquiry that the names of the petitioners were mutated in the *Jamabandi* [Records-of Right] on the basis of an alleged Gift Deed executed on 03.11.1997 by himself. Ram Gopal Garodia asserting that he never executed any gift deed in favour of the petitioners and it was a fraudulent act by hatching of a criminal conspiracy, submitted an application before the Additional Deputy Commissioner, Dibrugarh seeking cancellation of mutation orders made in favour of the petitioners. It was contended by Ram Gopal Garodia that when those mutation orders were effected, the second appeal preferred by him in 1996, that is, Second Appeal no. 187/1996 was still pending as the Judgment was delivered only on 23.07.2002 and as such, question of execution of any gift deed by him in favour of the petitioners did not arise. It was contended by him that the mutations were effected in favour of the petitioners by cancelling his name without serving any notice to him and without verifying the genuineness of the alleged gift deed on the basis of which his name was removed from the revenue records by the Circle Officer.
6. The case of the petitioners' side, in sum and substance, is that they purchased their

respective plots of land during the period 1998-1999 by way of registered sale deeds from vendors, mentioned above, claimed to be the earlier owners of the respective plots of land. It is the further case of the petitioners that after the purchase, they had taken possession of their respective plots of land and thereafter, got their names mutated in the revenue records. It is their contention that they had since been enjoying peaceful possession of their respective plots of land by constructing dwelling houses thereon and have been paying land revenue regularly. On the other hand, the case of Ram Gopal Garodia [since deceased] who is now represented by the respondent nos. 2 – 7, is that the name of Ram Gopal Garodia was mutated in the revenue records in respect of the parcels of land measuring 32 Bighas 3 kathas 13 Lessas, covered by different Dags & Periodic Pattas, located in Village – No. 1 Sarupathar Gaon, Mouza – Moran, District – Dibrugarh, which also comprise of the parcels of land claimed by these petitioners since much before the names of the petitioners were mutated in the revenue records and as such, the name of Ram Gopal Garodia could not have been deleted from the revenue records without his knowledge and behind his back. It was with such contentions, Ram Gopal Garodia preferred the mutation appeals, that is, [i] Mutation Case no. 18/2006; [ii] Mutation Case no. 19/2006; and [iii] Mutation Case no. 20/2006 before the Additional Deputy Commissioner, Dibrugarh.

7. The Additional Deputy Commissioner, Dibrugarh apart from hearing the parties, stated to have perused the Judgment dated 23.07.2002 passed in Second Appeal no. 187/1996 and a Report of the Circle Officer, Moran Revenue Circle dated 30.06.2006. The Additional Deputy Commissioner, Dibrugarh in the Order dated 21.08.2006, observed that Ram Gopal Garodia had *inter alia* sought for cancellation of the names of the opposite parties therein from the revenue records pertaining to two parcels of land viz. [i] a parcel of land measuring 9 Bighas 2 Kathas 9 Lessas, covered by Dag no. 89 & Periodic Patta no. 35; and [ii] a parcel of land measuring 6 Bighas 6 Lessas, covered by Dag no. 89 & Periodic Patta no. 3, on the strength of the Judgment dated 23.07.2002 passed in the second appeal, Second Appeal no. 187/1996. The Additional Deputy Commissioner, Dibrugarh had observed that the Circle Officer, Moran Revenue Circle had reported that the said two parcels of land in question had been in occupation of some other persons and they had been occupying the same by constructing dwelling houses thereon. It was observed that the Circle Officer, Moran

Revenue Circle in his Report had reported that Ram Gopal Garodia had no possession over the two parcels of land in question. It was observed that though by the Judgment dated 23.07.2002 passed in the second appeal, Second Appeal no. 187/1996, the High Court had decreed the suit, there was no direction for correction of the name of Ram Gopal Garodia in the Records of *Jamabandi* [Records-of-Right]. It was further observed that since title accompanied by possession was a condition precedent for mutation and Ram Gopal Garodia had no possession over the two parcels of land in question, the payer for cancellation of names of the opposite parties in the *Jamabandi* [Records-of-Right] could not be allowed.

8. Aggrieved by the Orders, all dated 21.08.2006, passed by the Additional Deputy Commissioner, Dibrugarh in Mutation Case no. 18/2006; Mutation Case no. 19/2006; & Mutation Case no. 20/2006, Ram Gopal Garodia preferred three appeals, that is, Case no. 151RA[DIB]/2006; [ii] Case no. 152RA[DIB]/2006; & [iii] Case no. 153RA[DIB]/2006 under Section 147 read with Section 151 of the Assam Land and Revenue Regulation, 1886 [‘the Regulation, 1886’, for short] before the Board of Revenue, Assam. During the pendency of the three appeals before the Board of Revenue, Assam, Ram Gopal Garodia expired on 13.11.2009. Subsequent to the death of Ram Gopal Garodia, the respondent nos. 2 – 7 substituted themselves in place of Ram Gopal Garodia by preferring applications before the Board of Revenue, Assam annexing therewith the death certificate issued by the Registrar, Birth & Death, Dibrugarh Municipality, on 22.01.2010, recording the factum of death of Ram Gopal Garodia. It may be mentioned that the title suit, Title Suit no. 178/1982 was instituted by Ram Gopal Garodia for recovery of khas possession over the suit land; and for permanent injunction to restrain the defendants therein from entering into the suit land. By the Judgment dated 23.07.2002 passed in Second Appeal no. 187/1996, the suit of the plaintiff [Ram Gopal Garodia] was decreed with cost all throughout against the defendants therein with the finding that the appellant [Ram Gopal Garodia] had valid title in respect of the suit land.
9. In the impugned Judgment dated 01.11.2010, the Board of Revenue, Assam having regard to the Judgment dated 23.07.2002 passed in Second Appeal no. 187/1996, had observed that the title of Ram Gopal Garodia concerning the disputed land was already confirmed by virtue of the Judgment dated 23.07.2002. The Board of Revenue, Assam in the backdrop of

afore-stated events and upon perusal of the records, had observed that the *jamabandi* [Records-of-Right] revealed that mutation granted by the Circle Officer in favour of the respondents therein was on the basis of a gift deed but it nowhere mentioned about any Gift Deed registration number. The petitioner no. 1 was the respondent no. 6 in Case no. 152RA[DIB]/2006 whereas the petitioner no. 3, the petitioner no. 4 and the petitioner no. 5 were the respondent no. 6, the respondent no. 10 and the respondent no. 12 respectively in Case no. 153RA[DIB]/2006. The petitioner no. 2 herein was not a respondent in any of the three revenue appeals preferred by Ram Gopal Garodia. But the vendor of the petitioner no. 2, Tultul Ahmed, the proforma respondent no. 10 herein was the respondent no. 3 in all the three revenue appeals instituted before the Board of Revenue, Assam. The Board of Revenue, Assam had observed that the appellant [Ram Gopal Garodia] denied the fact of execution of gift deed by him in favour of the respondents and the said aspect was neither discussed by the Additional Deputy Commissioner, Dibrugarh passed in the Orders, all dated 21.08.2006, passed in mutation appeals, that is, [i] Mutation Appeal Case no. DRP 18/2006; [ii] Mutation Appeal Case no. DRP 19/2006; and [iii] Mutation Appeal Case no. DRP 20/2006. The alleged registered gift deed was not placed on record by the respondents to dispel the allegation. The respondents' side did not produce any registered gift deed even before the Board of Revenue, Assam, on the basis of which mutation orders were passed in their favour. The Board of Revenue, Assam has reached a finding that mutation in respect of the parcels of land under reference stood in favour of the original appellant [Ram Gopal Garodia] since the year 1957 and the same was cancelled by the Circle Officer without issuance of any notice to the appellant [Ram Gopal Garodia], who was the owner and pattadar of those parcels of land at the relevant point of time. With such finding, the mutations effected by the Circle Officer in favour of the respondents in respect of the parcels of land in question as well as the Orders dated 21.08.2006 passed by the Additional Deputy Commissioner, Dibrugarh in mutation appeals, [i] Mutation Appeal Case no. DRP 18/2006; [ii] Mutation Appeal Case no. DRP 19/2006; and [iii] Mutation Appeal Case no. DRP 20/2006 were held to be not sustainable as the same were passed without following proper procedure and not in accordance with law. Accordingly, the Orders dated 21.08.2006 passed in mutation appeals were set aside and the appeals were remanded back for a fresh hearing granting liberty to the parties to submit their relevant legal documents in support of

their respective claims.

10. Chapter IV : Registration of the Assam Land and Revenue Regulation, 1886 has provided for 'Registration' which is interchangeably known as 'Mutation'. Section 50 of the Regulation, 1886 has mentioned about the liability of persons succeeding to estates to give information of succession. It has *inter alia* been provided therein that every proprietor or land holder succeeding to any estate, or share in an estate, whether by transfer or inheritance, and obtaining possession of the same, shall within the stipulated time period provided therein from the date of taking possession, has to apply to the concerned Deputy Commissioner of the district for registration of his name as such proprietor or land holder, and of the nature and extent of the interest in respect of which the application is made.
11. Section 52 and Section 53 have provided for the procedure about the application to be made for registration and inquiry to be caused by the Deputy Commissioner for effecting the registration. According to the said provisions, on receipt of an application, the Deputy Commissioner shall, if considers that there are sufficient grounds for proceeding with the application, publish a notice requiring all persons who object to the registration of the name of the applicant, or who dispute the nature or extent of interest in respect of which registration is applied have in a written statement of their objections, appear on a day to be specified in the notice, not being less than one month from the date thereof. Sub-section [2] of Section 52 has specifically prescribed that if the application alleges that the applicant has acquired possession of the estate, or share in an estate in respect of which he applies to be registered by transfer from any person, a copy of the notice shall be served on the alleged transferor, if he is dead, or upon his heir. As per Section 53, the Deputy Commissioner has to consider the application and the objections which may be advanced, and after such enquiry, if any, as appears necessary to ascertain the truth of the succession, assumption of or charge or possession alleged in the application, shall, if it appears to him that the succession, etc. accompanied by possession has taken place or that charge has been assumed or that the applicant is in possession, as the case may be, make an order directing the registration.
12. Reverting back to the facts of the case in hand, it is the case of the petitioners that their names were mutated in the respective plots of land, indicated above, during the year 1998-1999. On the other hand, the Board of Revenue, Assam has recorded a finding in its Judgment dated 01.11.2010 [supra] that in respect of the parcels of land measuring 32

Bighas 3 Kathas 13 Lessas, the name of Ram Gopal Garodia stood mutated in the year 1957. It is not in dispute that the respective plots of land, mentioned above, which the petitioners have claimed to have purchased from their respective vendors by registered sale deeds, are within the parcels of land measuring 32 Bighas 3 Kathas 13 Lessas. It has, thus, clearly emerged that when the mutations were effected in favour of the petitioners *qua* their respective plots of land purchased from their respective vendors after 1998, the concerned Records-of-Right [*jamabandi*] reflected the name of Ram Gopal Garodia. As the mutations in favour of the petitioners were effected by deletion of the name of Ram Gopal Garodia who was alive at that point of time, it was incumbent on the part of the authority who effected the mutation, to issue a notice to Ram Gopal Garodia as per procedure prescribed in Section 52[2] of the Regulation, 1886.

13. From the Orders dated 21.08.2006 passed in mutation appeals, [i] Mutation Appeal Case no. DRP 18/2006; [ii] Mutation Appeal Case no. DRP 19/2006; and [iii] Mutation Appeal Case no. DRP 20/2006, it is clearly demonstrated that Ram Gopal Garodia submitted applications before the Additional Deputy Commissioner, Dibrugarh seeking cancellation of the names of the respondents therein from the *Jamabandi* [Records-of-Right] pertaining to two parcels of land [i] a parcel of land measuring 9 Bighas 2 Kathas 9 Lessas, covered by Dag no. 89 & Periodic Patta no. 35; and [ii] a parcel of land measuring 6 Bighas 6 Lessas, covered by Dag no. 89 & Periodic Patta no. 3 which were parts of the parcels of land measuring 32 Bighas 3 Kathas 13 Lessas. The said applications were filed by Ram Gopal Garodia before the Additional Deputy Commissioner, Dibrugarh when similar applications filed before the Circle Officer, Moran Revenue Circle by him earlier were not considered by the Circle Officer, Moran Revenue Circle. Subsequent to such non-consideration of the applications by the Circle Officer, Moran Revenue Circle, Ram Gopal Garodia submitted the applications before the Additional Deputy Commissioner and the Additional Deputy Commissioner in purported exercise of power vested in him under Section 151 of the Regulation, 1886, passed the impugned Orders, dated 21.08.2006. As per Section 151, the Board of Revenue or the Deputy Commissioner or a Settlement Officer may call for the proceeding held by any officer sub-ordinate to it or him and pass such orders thereon as it or he may deem fit. As per Rule 2 [m] of the Regulation 1886, the 'Deputy Commissioner'

includes and shall be deemed always to have been included the Additional Deputy Commissioner. Thus, an Additional Deputy Commissioner is empowered to exercise the powers vested in the Deputy Commissioner under Section 151 of the Regulation, 1886. When the manner in which mutations were effected in favour of the petitioners in relation to the respective plots of land they had claimed to have purchased either by way of registered sale deed or by the alleged gift deed, was brought to the notice of the Additional Deputy Commissioner, Dibrugarh, it was incumbent on the part of the Additional Deputy Commissioner to examine as to whether the mutations were effected by the Circle Officer in favour of the petitioners in strict observance of the procedure prescribed for mutation in the Regulation, 1886.

14. It is trite to mention herein that mutation entry does not confer any right, title or interest in favour of the person and the mutation entry in the revenue record is only for the fiscal purpose. Mutation in revenue records neither creates nor extinguishes title to the property nor has any presumptive value or title. An entry in the revenue records does not confer title of a person whose name appears in Records of Right. Entries in the revenue records or jamabandi have only fiscal purpose, that is, payment of land revenue and no ownership is conferred on such entries. So far as the title of the property is concerned, it can only be decided by a competent civil court.
15. The High Court in exercise of its extra-ordinary jurisdiction under Article 226 of the Constitution of India does not act as a court of appeal and it does not ordinarily interfere with a finding on fact arrived by a tribunal like the Board of Revenue, Assam which is otherwise, the final arbiter as regards finding of facts. In the case in hand, the Board of Revenue, Assam has arrived at a finding that the mutations in respect of the plots of land in question, were in the name of Ram Gopal Garodia [since deceased] since the year 1957. The Board of Revenue has also arrived at a finding that the authorities had effected the mutations in favour of the respondents in mutation appeals, [i] Mutation Appeal Case no. DRP. 18/2006; [ii] Mutation Appeal Case no. DRP. 19/2006; and [iii] Mutation Appeal Case no. DRP. 20/2006 and revenue appeals, [i] Case no. 151RA[DIB]/2006; [ii] Case no. 152RA[DIB]/2006; & [iii] Case no. 153RA[DIB]/2006, without issuing any kind of notice to him [Ram Gopal Garodia], who was the owner and pattadar of the plots of land in question

at that relevant point of time. In view of such findings of fact by the Board of Revenue, Assam which are not disputed and have not been dislodged in any manner by the petitioners, this Court does not find any infirmity in the Judgment dated 01.11.2010 passed by the Board of Revenue, Assam, whereby, the matters have been remanded back to the Circle Officer, Moran Revenue Circle through the Additional Deputy Commissioner, Dibrugarh for a fresh hearing on the matter of mutation in respect of the plots of land in relation to the mutation appeals, that is, [i] Mutation Appeal Case no. DRP. 18/2006; [ii] Mutation Appeal Case no. DRP. 19/2006; and [iii] Mutation Appeal Case no. DRP. 20/2006. In such view of the matter, the writ petition is found to be devoid of any merits. Consequently, the same is dismissed. No Cost. Interim order, if any, stands recalled.

16. In view of dismissal of the writ petition, the parties shall now appear before the Additional Deputy Commissioner, Dibrugarh on 11th September, 2023 and on appearance of the parties before the Additional Deputy Commissioner, Dibrugarh, the Additional Deputy Commissioner shall proceed with the matter by fixing dates of hearing. In the hearing, the parties would be at liberty to produce the documents available at their disposal in support of their respective claims and the authority conducting the hearing shall provide due opportunity of personal hearing to all the parties and thereafter, pass the order on the matter of mutation in respect of the parcels of land in question in accordance with law and by following the procedure prescribed, as expeditiously as possible. It is further observed that the orders passed should be duly communicated to the parties forth with thereafter.
17. The LCR be sent back.

JUDGE

Comparing Assistant