

GAHC010147052022



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

Case No. : WP(C)/4844/2022

PARESH CHANDRA RAY AND 2 ORS.
S/O- LATE SHYAMA CHARAN RAY, R/O- HAKAMA PT. II, WARD NO. 9, P.O.
HAKAMA, P.S. BILASIPARA, DIST. DHUBRI (ASSAM), PIN- 783348.

2: DHIRESH CHANDRA RAY
S/O- LATE SHYAMA CHARAN RAY
R/O- HAKAMA PT. II
WARD NO. 9
P.O. HAKAMA
P.S. BILASIPARA
DIST. DHUBRI (ASSAM)
PIN- 783348.

3: UADY RAY
S/O- LATE SHYAMA CHARAN RAY
R/O- HAKAMA PT. II
WARD NO. 9
P.O. HAKAMA
P.S. BILASIPARA
DIST. DHUBRI (ASSAM)
PIN- 783348

VERSUS

THE STATE OF ASSAM AND 11 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GHY-06.

2: THE DEPUTY COMMISSIONER
DHUBRI
ASSAM
PIN- 783301.

3: THE ADDITIONAL DEPUTY COMMISSIONER

DHUBRI
PIN- 783301.

4:THE SUB-DIVISIONAL OFFICER (CIVIL)

BILASIPARA SUB-DIVISION
BILASIPARA
DIST.- DHUBRI
ASSAM. PIN-783348.

5:THE CIRCLE OFFICER
BILASIPARA REVENUE CIRCLE
DIST. DHUBRI
ASSAM. PIN- 783348.

6:ABUDU JALIL AHMED
S/O- JOYNAL UDINE AHMED
VILL. HAKAMA PT-I
W/NO. 9
P.O.- HAKAMA
P.S.- BILASIPARA
DIST- DHUBRI
ASSAM. PIN- 783348.

7:IMRAN HUSSAIN
S/O- ABUL HUSSAIN
VILL. HAKAMA PT-I
W/NO. 9
P.O.- HAKAMA
P.S.- BILASIPARA
DIST- DHUBRI
ASSAM. PIN- 783348.

8:SABUL SHEIKH
S/O- NEDA SHEIKH
VILL. HAKAMA PT-I
W/NO. 9
P.O.- HAKAMA
P.S.- BILASIPARA
DIST- DHUBRI
ASSAM. PIN- 783348.

9:SORIJUL HOQUE
S/O- DERAJ UDDIN SHEIKH
VILL. HAKAMA PT-I
W/NO. 9
P.O.- HAKAMA

P.S.- BILASIPARA
DIST- DHUBRI
ASSAM. PIN- 783348.

10:SOHID HUSSAIN
S/O- BABUL HUSSAIN
VILL. HAKAMA PT-I
W/NO. 9
P.O.- HAKAMA
P.S.- BILASIPARA
DIST- DHUBRI
ASSAM. PIN- 783348.

11:ABUAL HUSSAIN
S/O- LT. TOFAZZAL HUSSAIN
VILL. HAKAMA PT-I
W/NO. 9
P.O.- HAKAMA
P.S.- BILASIPARA
DIST- DHUBRI
ASSAM. PIN- 783348.

12:NUR HUSSAIN
S/O- LT. PIYAR ALI SHEIKH

VILL. HAKAMA PT-I
W/NO. 9
P.O.- HAKAMA
P.S.- BILASIPARA
DIST- DHUBRI
ASSAM. PIN- 783348

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 06-10-2023

Heard Mr. M.U. Mondal, learned counsel for the writ petitioner.

The petitioners herein are seeking to transfer their immovable property by way of sale in favour of respondent Nos. 7 to 12 and for that purpose they have applied for 'NOC' from the respondent No. 2, *i.e.* the District Commissioner, Dhubri. However, since the application made by the petitioners on 17-01-2022 praying for NOC to execute the sale-deed has not yet been considered by the concerned authority, the instant writ petition has been filed.

Mr. N. Goswami, learned Govt. Advocate, Assam submits that there is a title suit pending before the civil court pertaining to the same land, which fact has also been mentioned in the counter affidavit filed by the respondent No. 2 and that is the reason why the NOC could not be granted to the petitioners till today.

Mr. N. Upadhyay, learned counsel for the private respondent Nos. 6 to 12 is present.

After going through the counter affidavit filed by the respondent No. 2, I find that there is a title suit being Title Suit No. 25/2022 pending before the court of Munsiff at Bilasipara involving the same plot of land.

Although Mr. Mondal submits that there is no order of injunction operating in that case, even then, since there is a suit pending before the court, unless the petitioners obtain leave of the civil court to transfer the land during the pendency of the suit, no writ of mandamus can be issued upon the respondent No. 2 by this Court to grant the NOC.

In view of the above, by granting liberty to the petitioners to approach the learned court below seeking leave to apply for NOC for transfer of the land, this writ petition

stands disposed of.

It is made clear that if such an application is filed by the petitioners, the same may be considered objectively and be disposed of by a reasoned order, as expeditiously as possible.

JUDGE

GS

Comparing Assistant