

GAHC010176932023



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

Case No. : WP(C)/4688/2023

RAFIK ALI
S/O- LT. MAHAMMAD ALI, R/O- VILL- JOGIRBHITA, P.O. TULSIBIL, P.S.
GOSSAIGAON, DIST. KOKRAJHAR (ASSAM), PIN- 783337

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GHY-06

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GHY-06

3:THE DEPUTY COMMISSIONER
KOKRAJHAR
ASSAM

4:THE SETTLEMENT OFFICER
KOKRAJHAR
ASSAM

5:THE CIRCLE OFFICER
GOSSAIGAON REVENUE CIRCLE
DIST.- KOKRAJHAR
ASSAM

6:THE CIRCLE OFFICER
BAORAGURI REVENUE CIRCLE
DIST. KOKRAJHAR
ASSAM

7:JOHURA KHATUN
D/O- LT. ASGOR ALI TALUKDAR
R/O- VILL- JOGIRBHITA
P.O. TULSIBIL
P.S. GOSSAIGAON
DIST.- KOKRAJHAR
(ASSAM)
PIN- 783337

8:AKBOR ALI
S/O- LT. ASGOR ALI TALUKDAR
R/O- VILL- JOGIRBHITA
P.O. TULSIBIL
P.S. GOSSAIGAON
DIST.- KOKRAJHAR
(ASSAM)
PIN- 78333

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 21/08/2023

Heard Mr. M.U. Mondal, learned counsel for the writ petitioner. Also heard Ms. G. Hazarika, learned Standing Counsel, Revenue and Disaster Management Department, Assam, appearing for the respondent no. 2 and Mr. H. Sarma, learned Additional Senior Government Advocate, Assam, appearing for the respondent nos. 1, 3, 4, 5 & 6.

The writ petitioner herein claim to be the legal heir of late Moyful Bibi, wife of late Mohammad Ali, who was the absolute owner of a plot of land measuring 4Bighas – 2 Kathas, covered by Dag No. 139(old)/150(new) of K.P. Patta No. 74(old)/105(new) of village – Bashirchar under Bawraguri Revenue Circle Office in the district of Kokrajhar, Assam.

According to the petitioner, the name of the respondent nos. 7 & 8 are required to be deleted from the “record of rights” pertaining to the above land since they do not have any semblance of right, title or interest over the plot of land in question. Notwithstanding the same and despite the

application dated 22/11/2022 submitted by the petitioner before the Deputy Commissioner, Kokrajhar i.e. the respondent no. 3, praying for deleting the name of the private respondents from the record, no action has been taken in the matter till today. Hence, this writ petition.

By referring to the provisions of Rule 116 of the Rules framed under the Assam Land and Revenue Regulations, 1886, Mr. Mondal submits that the District Commissioner has the power to order that the name of a proprietor be struck off from the Register whenever it comes to his notice that any person whose name is recorded therein, is no longer in possession of any such estate. Notwithstanding the same, no action has been taken in the matter till today.

The learned departmental counsel have submitted that since there is a provision in the Rule permitting the District Commissioner to take action in the matter, a direction be issued to the concerned authority to examine the grievance of the petitioner and take appropriate action in the matter. Mr. Mondal has also agreed to such recourse.

In view of the above, without expressing any opinion on the merit of the case projected in this writ petition, in so far as the claim of the petitioner over the land is concerned, this writ petition is being disposed of by providing that the respondent no. 3 may examine the representation dated 21/11/2022 submitted by the petitioner and take appropriate action in the matter, as may be permissible under the law.

If on verification of fact, it transpires that the issue projected in the writ petition raises a civil dispute and, therefore, requires adjudication by the Civil Court, it would be open for the concerned authority to express such an opinion in writing by giving proper reasons.

It is also made clear that before taking any decision in the matter, the respondent nos. 7 & 8 may also be heard.

With the above observation, this writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant