

GAHC010183812019



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

Case No. : I.A.(Civil)/737/2020

DEBOJIT GOGOI and ANR.
S/O- LT. BIRESWAR GOGOI. R/O- NO. 1 SORUPATHER GAON
P.O. and P.S.- MORAN
DIST.- DIBRUGARH
ASSAM.

2: BABUJAN ALI
S/O- MD. MEHERUN ALI
R/O- NO. 1 SORUPATHER GAON
P.O. and P.S.- MORAN
DIST.- DIBRUGARH
ASSAM.
VERSUS

ASSAM BOARD OF REVENUE and 11 ORS.
REPRESENTED BY ITS CHAIRMAN
HAVING ITS OFFICE AT PANBAZAR
GHY- 1

2:ON THE DEATH OF RAM GOPAL GARODIA HIS LEGAL HEIRS
DIBRUGARH

2.1:TULSI DEVI GARODIA(WIFE)
R/O. JYOTI NAGAR
P.S. DIBRUGARH
DIS. DIBRUGARH
ASSAM

2.2:BINOD KUMAR GARODIA (SON)
R/O. JYOTI NAGAR
P.S. DIBRUGARH
DIS. DIBRUGARH
ASSAM

2.3:BASANTA KUMAR GARODIA (SON)
R/O. JYOTI NAGAR
P.S. DIBRUGARH

DIS. DIBRUGARH

ASSAM

2.4:SARITA DEVI BAJORIA (DAUGHTER)

R/O. JYOTI NAGAR

P.S. DIBRUGARH

DIS. DIBRUGARH

ASSAM

2.5:SANGITA DEVI AGARWAL (DAUGHTER)

R/O. JYOTI NAGAR

P.S. DIBRUGARH

DIS. DIBRUGARH

ASSAM

2.6:BIMAL KUMAR GARODIA (SON)

R/O. JYOTI NAGAR

P.S. DIBRUGARH

DIS. DIBRUGARH

ASSAM

3:THE ADDITIONAL DEPUTY COMMISSIONER

DIBRUGARH

DIST. DIBRUGARH

ASSAM

4:SHEIKH AMATULLAH

S/O. LATE MAMUD AHMED

R/O. NO.1 SORUPATHAR

P.O. MORAN

DIST. DIBRUGARH

ASSAM

5:SHEIKH ABDULLAH

S/O. LATE MAMUD AHMED

R/O. NO.1 SORUPATHAR

P.O. MORAN

DIST. DIBRUGARH

ASSAM

6:TULTUL AHMED

S/O. LATE MAMUD AHMED

R/O. NO.1 SORUPATHAR

P.O. MORAN

DIST. DIBRUGARH

ASSAM

7:NURJAHAN BEGUM

W/O. LATE MAMUD AHMED

R/O. NO.1 SORUPATHAR

P.O. MORAN

DIST. DIBRUGARH

ASSAM

Advocate for : MR. C BORUAH

Advocate for : appearing for ASSAM BOARD OF REVENUE and 11 ORS.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

21.08.2023

The instant application has been filed seeking restoration of WP(C) No.4591/2012 which was dismissed on 29.01.2016 by this Court.

2. It appears from a perusal of the order dated 29.01.2016 that this Court had also taken into consideration that the petitioners had also not taken any steps against the respondent Nos.2, 7, 9, 10, 11 & 12 inspite of various opportunities being availed. It was also observed in the said order that the petitioners were not represented. It was under such circumstances that the writ petition was dismissed for non-prosecution.

3. It appears from a perusal of the application that the counsel who represented the petitioners was not aware of the order of dismissal on account of his preoccupation as stated in paragraph No.3 of the said application. It was only on 08.04.2019 when the connected writ petition was taken up by this Court, it came to the knowledge of the counsel of the petitioners that the accompanying writ petition was dismissed for non-prosecution, and accordingly, on 07.06.2019, the instant application was filed.

4. I have heard the learned counsels for the parties. It appears that it was on account of the fault of the counsels which had resulted in the dismissal of the writ petition, and as such, it is the opinion of this Court that on account of the fault of the counsels, the petitioners cannot be penalized.

5. Accordingly, this Court restores the accompanying writ petition to the file by setting aside the order of dismissal dated 29.01.2019.

6. This Court further takes note of that in the meantime, certain rights have accrued upon the respondents. However, the same can be duly taken care of by imposing costs. Accordingly, a cost of Rs.7,500/- (Rupees seven thousand, five hundred) only is imposed upon the petitioners which shall be deposited by the petitioners by 30.08.2023 before the Registry of this Court.

7. The learned counsel appearing on behalf of the respondent Nos.2 to 7 shall be at liberty to file appropriate application for release of the said amount and the Registry shall release the said amount to the respondent Nos.2 to 7 on such application.

8. In view of the above, the instant application stands disposed of and the writ petition is restored to the file.

JUDGE

Comparing Assistant