

GAHC010219292021



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

Case No. : WP(C)/7251/2021

BINA MONI RAY BARUAH AND ANR.
W/O-LATE SANJAY BARTUAH, D/O- LATE KHANIN RAY,
R/O- VILLAGE HEKAIPARA, P.O AND P.S- BASUGAON, DIST-CHIRANG,
BTR, ASSAM

2: SANJU RAY BARUAH
S/O- LATESANJAY BARUAH
REP. BY HIS NEXT FRIEND CUM MOTHER BINA MONI RAY BARUAH
R/O- VILLAGE HEKAIPARA
P.O AND P.S- BASUGAON
DIST-CHIRANG
BTR
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY , GOVT. OF ASSAM, HOME
DEPARTMENT, DISPUR, GUWAHATI-06

2:THE SUPERINTENDENT OF POLICE
DIBRUGARH DISTRICT AT DIBRUGARH
ASSAM

3:THE OFFICER IN CHARGE
TINGKHONG POLICE STATION

DIST-DIBRUGARH
ASSAM

4:THE ACCOUNTANT GENERAL
ASSAM
BELTOLA
GHY-28

5:SMTI MONI BARUAH
2ND WIFE OF LATE SANJAY BARUAH
R/O- VILLAGE TITADIMARU
P.O-MOHANBARI

DIST-DIBRUGARH
ASSAM
PIN-786001

6:RANTU BARUAH
S/O- LATE SANJAY BARUAH
MINOR
REP. BY HIS MOTHER CUM NEXT FRIEND MONI BARUAH
R/O- VILLAGE TITADIMARU
P.O- MOHANBARI

DIST-DIBRUGARH
ASSAM
PIN- 78600

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

03-08-2023

Heard Mr. M.U.Mahmud, learned counsel for the petitioners and Mr. P. Saikia, learned Government Advocate, Assam for the respondent Nos. 1, 2 & 3. Also heard Mr. R. K. Talukdar, learned Standing counsel, Accountant General (A&E), Assam for the respondent No. 4 and Mr. B. Islam, learned counsel for the respondent Nos. 5 & 6.

2. Matter pertains to the claim of the family pension by the petitioners on the death of Sanjay Baruah, a Constable in the Assam Police, who expired on 21.10.2019.

- 3.** It is contended by the petitioner No. 1, Bina Moni Ray Baruah that said Sanjay Baruah married her on 27.05.2008 and that the petitioner No. 2, Sanju Ray Baruah born out of their wedlock.
- 4.** Mr. Islam, learned counsel appearing for the respondent Nos. 5 & 6, submits that Smti. Moni Baruah, respondent No. 5 is the first wife of deceased Sanjay Baruah and that Rantu Baruah, respondent No. 6 is their son.
- 5.** By filing an affidavit on 27.07.2023, Mr. Islam, learned counsel for the respondent Nos. 5 & 6 placed before the Court that those two respondent Nos. 5 & 6 along with three daughters born to Smti. Moni Baruah, respondent No. 5 and the deceased Sanjay Baruah, filed a petition under Section 372 of the Indian Succession Act, 1925 before the learned District Judge at Dibrugarh being MISC (Succession) Case No. 22/2021 praying for the Succession Certificate on the death of said Sanjay Baruah in which the present petitioners were the opposite party Nos. 1 & 2.
- 6.** Mr. Islam, learned counsel for the respondent Nos. 5 & 6 also stated that after hearing the parties, the learned Additional District Judge, Dibrugarh by order dated 15.06.2023 passed in said MISC (Succession) Case No. 22/2021 held that the petitioners therein i.e., the respondent Nos. 5 & 6 herein along with three daughters, namely, Smti. Sangeeta Baruah @ Rimjim; Smti. Rimpi Baruah and Smti. Ritamoni Baruah are the surviving legal heirs of late Sanjay Baruah and accordingly, issued the Succession Certificate in favour of the petitioners therein.
- 7.** As the Succession Certificate has been issued in favour of the respondent Nos. 5 & 6, the Court is not inclined to interfere with the matter in exercising of its power conferred under Article 226 of the Constitution of India, pertaining to the issues involved in this writ petition.
- 8.** In view of the above, this writ petition being devoid of merit stands dismissed.

JUDGE

Comparing Assistant