

GAHC010225322023



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

Case No. : WP(C)/5893/2023

RANJUMA BEGUM AND 3 ORS
WIFE OF LATE HASMAT ALI,
RESIDENT OF VILLAGE/ TOWN- AZARA,
HATKHUWAPARA, P.O. AND P.S.- AZARA,
GUWAHATI, PIN- 781030,
IN THE DISTRICT OF KAMRUP, ASSAM.

2: MD. AMON ALI
SON OF LATE HASMAT ALI

RESIDENT OF VILLAGE/ TOWN- AZARA

HATKHUWAPARA
P.O. AND P.S.- AZARA

GUWAHATI
PIN- 781030

IN THE DISTRICT OF KAMRUP
ASSAM.

3: MD. SUMAN ALI
SON OF LATE HASMAT ALI

RESIDENT OF VILLAGE/ TOWN- AZARA

HATKHUWAPARA
P.O. AND P.S.- AZARA

GUWAHATI
PIN- 781030

IN THE DISTRICT OF KAMRUP
ASSAM.

4: MD. ABED ALI
SON OF LATE MD. MOFIJ ALI

RESIDENT OF VILL./TOWN- MIKIRPARA

DHARAPUR
GUWAHATI
PIN- 781030

IN THE DISTRICT OF KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY COMMISSIONER/ SECRETARY TO THE GOVERNMENT
OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
BLOCK-F, 1ST FLOOR, ASSAM SECRETARIAT (CIVIL),
DISPUR, GUWAHATI- 781006.

2:THE DISTRICT COMMISSIONER
KAMRUP METRO
LICHUBAGAN
HENGRABARI

GUWAHATI- 781036
IN THE DISTRICT OF KAMRUP(M)
ASSAM.

3:THE ADDITIONAL DISTRICT COMMISSIONER
KAMRUP METRO
LICHUBAGAN
HENGRABARI
GUWAHATI- 781036

IN THE DISTRICT OF KAMRUP(M)
ASSAM.

4:THE CIRCLE OFFICER
AZARA REVENUE CIRCLE
GUWAHATI- 781017

IN THE DISTRICT OF KAMRUP(M)
ASSAM

Advocate for the Petitioner : MR. D SARAF

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 16-10-2023

Heard Mr. D. Saraf, learned counsel for the writ petitioners. Also heard Ms. N. Bordoloi, learned standing counsel, Revenue Department, Assam appearing for the respondent No. 1 and Ms. M. Barman, learned Govt. Advocate, Assam appearing for the respondent Nos. 2 to 4.

The writ petitioners herein had submitted application before the District Commissioner, Kamrup (M) seeking "No-Objection Certificate" (NOC) for transfer of their immovable property by way of sale. However, the application submitted by the petitioners seeking 'NOC' has apparently been rejected. Since there is no speaking order with reasons issued to the petitioners, hence, they have approached this Court by filing the instant writ petition seeking a copy of the order.

Mr. Saraf has invited the attention of this Court to the Assam State amendment carried out to the Registration Act., viz. Registration (Assam Amendment) Act, 2009, more particularly, the amended provision of Section 21A of the Act, to submit that if an application for issuance of 'NOC' is rejected by the authorities then a speaking order with reasons thereof, is required to be issued to the applicants within the statutory period of time, i.e. 30 days. But no such order has been issued to his clients

Taking note of the submission made by the petitioners' counsel, this matter was

posted for obtaining instruction. Today when the matter is called up, Ms. Barman has produced a copy of the written instruction dated 12-10-2023 issued by the Addl. District Commissioner (ADC), Kamrup (M). A perusal of the aforesaid instruction *prima facie* indicates that since the application was processed through "online" mode, hence, the order of rejection is also available in the portal. As per order dated 16-03-2023 the ADC, Kamrup(M), In-Charge, Azara Land Sale had rejected the application for 'NOC' made by the writ petitioners. However, the said order, according to the department, could not be retrieved in 'online' mode. The written instructions further indicate that the relevant records have been called for from the office of the Circle Officer, Azara Revenue Circle to be furnished within 07 days, where-after, an attempt would be made to retrieve the 'online' data through proper procedure.

Be that as it may, the respondents' counsel have not denied or disputed the fact that as per mandate of Act of 2009, more particularly, Section 21A, the respondents would be duty bound to issue a speaking order with reasons thereof, to the petitioners stating the ground on which the application for 'NOC' has been rejected. Situated thus, this writ petition is being disposed of at the motion stage by directing the respondent Nos. 2 to 4 to take necessary steps for issuance of speaking order with reasons for rejection of the 'online' application seeking 'NOC' and furnish the same to the petitioners within a period of 03 weeks from the date of receipt of a certified copy of this order.

A copy of the written instruction dated 12-10-2023 be retained in the record of this case.

It is made clear that if the petitioners continue to remain aggrieved even thereafter,

it will be open for them to avail appropriate remedy that may be available in accordance with law.

With petition stands disposed of accordingly.

JUDGE

GS

Comparing Assistant