

GAHC010233482019



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

Case No. : WP(C)/7314/2019

HARMOHAN DEKA
S/O- LT PADMA RAM DEKA, PRESENTLY R/O- KAHILIPARA, GHY-19, DIST-
KAMRUP

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY COMM. AND SECY., GOVT. OF ASSAM, REVENUE DEPTT., DISPUR,
GHY-06

2:DY COMMISSIONER
KAMRUP (R)
AMINGAON
ASSAM
PIN- 781031

3:CIRCLE OFFICER
KAMALPUR REVENUE CIRCLE
KAMALPUR
KAMRUP (R)
PIN- 781380

4:GEETA DEKA
W/O- ANUP DEKA
R/O- AGDALA
P.O. BAIHATA CHARIALI
DIST- KAMRUP (R)
ASSAM- 781381

5:RUBI DEKA
W/O- MUNINDAR DEKA
R/O- AGDALA

P.O. BAIHATA CHARIALI
DIST- KAMRUP (R)
ASSAM- 78138

For the Petitioner : Mr. D.K. Nath, Advocate.
For the Respondents : Ms. S. Baruah, Advocate.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

21.08.2023

The instant writ petition has been filed by the Petitioner challenging the order dated 08.02.2019 passed by the Circle Officer, Kamalpur Revenue Circle, Kamalpur, Kamrup(Rural) in Mutation Case No. KAM/2018-19/1464/FMUT whereby the names of the Respondent Nos. 4 & 5 were mutated in Dag No. 956 and 967 covered by K.P. Patta No. 211 at Village Agdola under Kamalpur Revenue Circle, Kamrup (Rural) as well as another order dated 08.02.2019 passed by the Circle Officer, Kamalpur Revenue Circle, Kamalpur, Kamrup(Rural) in Mutation Case No. KAM/2018-19/1465/FMUT whereby the names of the Respondent Nos. 4 & 5 were also mutated in Dag No. 796 covered by K.P. Patta No. 126 at Village Agdola under Kamalpur Revenue Circle, Kamrup (Rural).

2. At the outset this Court is of the opinion that the orders challenged are two different and distinct orders passed in separate mutation proceedings in respect to different plots of land. Under such circumstances, the instant writ petition filed is not maintainable.

3. Be that as it may, a perusal of the instant writ petition, would show that pursuant to the impugned orders, the Petitioner filed separate applications before the Circle Officer, Kamalpur Revenue Circle, Kamalpur for cancellation of the impugned orders so passed. However, it is the case of the Petitioner that no steps have been taken by the Circle Officer, Kamalpur Revenue Circle, Kamalpur, pursuant to the said applications and it is under such circumstances, the Petitioner has approached this Court under Article 226 of the Constitution.

4. I have perused the materials on record as well as also the orders which have been passed including the affidavit-in-opposition filed by the Circle Officer, North Guwahati Revenue Circle, Amingaon.

5. From a perusal of the materials on record, it transpires that the said impugned orders are field mutation orders which are passed in exercise of the powers under Section 53A (1) of the Assam Land and Revenue Regulations, 1886 (in short 'the Regulations'). Under such circumstances, the Petitioner had the remedy to move the appropriate applications before the Deputy Commissioner, Kamrup (R), Amingaon under Section 53 (2) of the said Regulations. However, the applications were moved before the Circle Officer, Kamalpur Revenue Circle, Kamalpur. It is also seen from a perusal of the said Regulations that the said authority i.e. the Circle Officer, Kamalpur Revenue Circle, Kamalpur, does not have the power of review. Under such circumstances, this Court finds no illegality in the actions on the part

of the Circle Officer, Kamalpur Revenue Circle, Kamalpur in not taking any steps pursuant to the applications filed for cancellation of the mutation of the Respondent Nos. 4 and 5 by the Petitioner.

6. Be that as it may, taking into account that the Petitioner has approached this Court directly, the Petitioner is given the liberty to move appropriate applications before the Deputy Commissioner, Kamrup (Rural), Amingaon under 53 (2) of the Regulations challenging the impugned order of mutation in favour of the Respondent Nos. 4 and 5. It is further observed that if the Petitioner approaches the said Deputy Commissioner, Kamrup (Rural), Amingaon by 23rd of September, 2023, the said applications shall be deemed to be an application filed within the period of limitation. The Deputy Commissioner, Kamrup (Rural) is directed to dispose of such applications if filed as expeditiously as possible by giving due notice to the parties.

7. With the above observations and directions, the instant writ petition stands disposed.

JUDGE

Comparing Assistant