

GAHC010011312024



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

Case No. : WP(C)/2582/2024

MUSSTT HAZERA KHATUN
DAUGHTER OF LATE AZIMUDDIN,
WIFE OF MOHAMMAD ALI,
RESIDENT OF VILLAGE-1 NO. KATHPARA,
P.S.- RUPAHIHAT, DISTRICT- NAGAON,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE ADDITIONAL DEPUTY COMMISSIONER
DISTRICT NAGAON
ASSAM.

3:THE CIRCLE OFFICER
RUPAHI REVENUE CIRCLE
DISTRICT- NAGAON
ASSAM.

4:MUSSTT. HALEMON NESSA
WIFE OF LATE ABDUL MALEK

RESIDENT OF VILLAGE- NIZ SAIDARIA

MOUZA- SAIDARIA

P.O- SAIDARIA
P.S.- RUPAHI

DISTRICT- NAGAON
ASSAM
PIN- 782125.

5:JOYNAL ABEDIN
SON OF LATE HASEM ALI

RESIDENT OF VILLAGE- NIZ SAIDARIA

MOUZA- SAIDARIA
P.S.- RUPAHI

DISTRICT- NAGAON
ASSAM
PIN- 782125

Advocate for the Petitioner : MR J C BORAH

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 17-05-2024

- 1.** Heard Mr. J.C. Borah, learned counsel for the petitioner; Mr. A. Bhattacharjee, learned Standing Counsel, Revenue & Disaster Management department for respondent no. 1 and Mr. S. Baruah, learned Government Advocate, Assam for respondent nos. 2 & 3.
- 2.** The petitioner has instituted the instant writ petition to assail an Order dated 04.02.2021 passed by the Additional Deputy Commissioner, Nagaon in Misc. Appeal no. 75/2018-2019. The order dated 04.02.2021 has been passed by the Additional Deputy Commissioner acting as an appellate authority against an order of mutation.
- 3.** Section 147[a] of the Assam Land and Revenue Regulation, 1886 has provided for an appeal to the Board of Revenue, Assam from an order, original or appellate, passed by the Deputy Commissioner. As per Section 3[m], 'Deputy Commissioner' includes and shall be deemed always to have included the Additional Deputy Commissioner. Thus, the Order dated

04.02.2021 is an appealable order. Though a period of limitation of two months is provided in clause-[a] of sub-section [1] of Section 148 of the Assam Land and Revenue Regulation, 1886, sub-section [3] of Section 148 has provided that an appeal may be admitted after the period of limitation prescribed thereof by Section 148 when the appellant satisfies the Board of Revenue that he/she has sufficient cause for not presenting the appeal within the prescribed period of limitation.

4. In view of the availability of the provision for preferring a statutory appeal which appears to be an adequate and efficacious remedy, the writ petition, at this stage, is not entertained, reserving a liberty to the petitioner to exhaust the remedy of preferring the statutory appeal, at first, before the Board of Revenue, Assam.

JUDGE

Comparing Assistant