

GAHC010081612024



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

Case No. : WP(C)/2256/2024

NIRUPAM DAS AND ANR
SON OF LATE NITISH RANJAN DAS AND SMTI KANAKLATA DAS,
RESIDENT OF NOBA KUTIR, TIKOR BASTI HOUSE NO.34, SILCHAR TOWN,
WARD NO. 25, P.O. AND P.S. SILCHAR, DISTRICT- CACHAR, ASSAM

2: SRI ANUPAM DAS
SON OF LATE NITISH RANJAN DAS AND SMTI KANAKLATA DAS
RESIDENT OF NOBA KUTIR
TIKOR BASTI HOUSE NO.34
SILCHAR TOWN
WARD NO. 25
P.O. AND P.S. SILCHAR
DISTRICT- CACHAR
ASSA

VERSUS

THE STATE OF ASSAM AND 8 ORS
THROUGH THE SECRETARY, TO THE GOVERNMENT OF ASSAM, REVENUE
AND DISASTER MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-
781006

2:THE DISTRICT COMMISSIONER
CACHAR (REVENUE BRANCH
NOC SECTION) SILCHAR
DISTRICT CACHAR
ASSAM

3:THE ADDITIONAL DISTRICT COMMISSIONER
(REVENUE BRANCH
SADAR
NOC SECTION)
CACHAR
SILCHAR

DISTRICT CACHAR
ASSAM
PIN CODE- 788001

4:THE ASSISTANT SETTLEMENT OFFICER
SILCHAR SADAR
P.O. AND P.S. SILCHAR
DISTRICT CACHAR
ASSAM
PIN CODE- 788001

5:THE DEPUTY REGISTRAR
CACHAR
SILCHAR
DISTRICT CACHAR
ASSAM
PIN CODE- 788001

6:THE SILCHAR MUNICIPAL BOARD
REPRESENTED BY ITS EXECUTIVE OFFICER
SILCHAR
DISTRICT- CACHAR
ASSAM
PIN CODE- 788001

7:SMTI KANAKLATA DAS
W/O- LATE NITISH RANJAN DAS
RESIDENT OF NABA KUTIR TIKOR BASTI HOUSE NO. 34 SILCHAR TOWN
WARD NO. 25
P.O. AND P.S. SILCHAR
DISTRICT- CACHAR
ASSAM

8:SMTI JOYEETA DAS
W/O- SRI ANUPAM DAS
RESIDENT OF NABA KUTIR TIKOR BASTI HOUSE NO. 34 SILCHAR TOWN
WARD NO. 25
P.O. AND P.S. SILCHAR
DISTRICT- CACHAR
ASSAM

9:SRI ANURAG DAS
S/O- SRI ANUPAM DAS
RESIDENT OF NABA KUTIR TIKOR BASTI HOUSE NO. 34 SILCHAR TOWN
WARD NO. 25
P.O. AND P.S. SILCHAR
DISTRICT- CACHAR
ASSA

Advocate for the Petitioner : MR. R MAJUMDAR

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 01-05-2024

Heard Mr. R. Mazumdar, learned counsel for the petitioners and Ms. PR Mahanta, learned standing counsel for the Revenue Department appearing for the respondent no.1 and Ms. S. Sarma, learned Govt. Advocate appearing for the respondent nos.2, 3, 4 and 5 and Mr. S. Dutta, learned senior counsel assisted by Mr. S. Dutta, appears for the respondent no.6.

2. The case of the petitioners is that their mother who is arrayed as respondent no.7, is aged about 78 years and is suffering from various old age ailments including neurological ailments. It is projected that she is unable to speak, read or write and is incapable of giving her free consent.

3. It appears from the statements made in this writ petition that there is a family dispute between the petitioners and the respondent no.8 and it is also projected that their mother is presently residing with respondent nos.8 and 9 and it is also alleged that the respondent no.8 is not permitting the petitioners to meet their mother.

4. It is projected that a land sale permission has been applied for in

respect of the immovable property standing in the name of the respondent no.7. Although objection was filed by the petitioners, the Addl. District Commissioner, Cachar (Revenue Branch, Sadar, NOC Section), Silchar had rejected the objection by order dated 18.01.2024. The said order has been assailed in this writ petition filed under Article 226 of the Constitution of India.

5. From the above brief facts the existence of disputed questions of facts is disclosed and it also appears that there is dispute between the members of the family. Under such circumstances, the Court is disinclined to entertain this writ petition as the petitioners have an alternative remedy of approaching the Civil Court.

6. The learned counsel for the petitioners has submitted that at least the Court can issue a direction for assessment of the mental health of the respondent no.7.

7. In this regard, the Court is of the considered opinion that the materials available in the writ petition are insufficient for the Court to prima facie record its satisfaction that an inquiry is required to assess the mental health of the respondent no.7. If the petitioners have any apprehension of such nature, the petitioners may be well advised to approach the competent authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 or under the Mental Healthcare Act, 2017 or any other law in force.

8. The learned Govt. Advocate has submitted upon instructions that under section 7(1) of the provisions of the said Act of 2007, a Maintenance

Tribunal and Appellate Tribunal has been notified by the Govt. Of Assam vide notification issued on 02.08.2008 and that the District Social Welfare Officers in the State of Assam has been notified as Maintenance Officers. If so advised, the petitioners shall explore as to the desire to avail such remedy as provided under the said aforesaid Act.

9. We record our appreciation for Mr. H. Sarma, learned Addl. Senior Govt. Advocate who is present in Court for having the notification dated 02.08.2008 readily available for the perusal of the Court.

10. With the said observations and liberty as granted above, this writ petition stands closed.

JUDGE

Comparing Assistant