

GAHC010083582024



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

Case No. : WP(C)/2362/2024

REHEEZ IKTIAZ AHMED AND ANR
S/O LATE DR. HIKMAT ALI AHMED
RESIDENT OF HOUSE NO. 96, BHETAPARA ROAD, PO AND PS HATIGAON,
DIST KAMRUP M ASSAM 781038

2: ZEIBA NAZNEEN AHMED
D/O LATE DR. HIKMAT ALI AHMED
RESIDENT OF HOUSE NO. 96
BHETAPARA ROAD
PO AND PS HATIGAON
DIST KAMRUP M ASSAM 78103

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF
ASSAM,REVENUE AND DISASTER MANAGEMENT DISPUR GUWAHATI 06

2:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DISPUR GUWAHATI 06

3:THE DEPUTY COMMISSIONER
BARPETA
ASSAM 781301

4:THE CIRCLE OFFICER

BARPETA
PO BARPETA
ASSAM 781301

5:MAHIMA KHATUN
W/O LATE DR. HIKMAT ALI AHMED

PERMANENT RESIDENT OF MUSLIM PATTI
BARPETA
ASSAM 781301

6:MUNIM AHMED
S/O LATE DR. HIKMAT ALI AHMED
PERMANENT RESIDENT OF MUSLIM PATTI
BARPETA
ASSAM 781301
REP. BY RES. NO.

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 15-05-2024

Heard Mr. M. Ahmed, learned counsel for the petitioners; Ms. P.R. Mahanta, learned Standing Counsel, Revenue & Disaster Management Department for the respondent nos. 1 & 2; and Mr. S. Baruah, learned Junior Government Advocate, Assam for the respondent nos. 3 & 4.

2. The two petitioners claim that they were the son and the daughter of one Late Dr. Hikmat Ali Ahmed and from his first deceased wife. According to the petitioner, the respondent no. 5 was the second wife of Late Dr. Hikmat Ali Ahmed and the respondent no. 6 is the son of the respondent no. 5.

3. The petitioners have approached this Court by the instant writ petition with a grievance that the respondent no. 5 and the respondent no. 6 without disclosing that the two petitioners are also Next-of-Kins of Late Dr. Hikmat Ali

Ahmed, got issued a Next-of-Kin Certificate in their favour on 18.09.2021 [Annexure-I]. The petitioners claim that such Next-of-Kin Certificate has been obtained by submitting affidavits with suppression of material facts. As soon as the petitioners received the information about issuance of the Next-of-Kin Certificate in favour of the respondent no. 5 and the respondent no. 6 in the year 2023, the petitioners submitted a Representation before the issuing authority of the Next-of-Kin Certificate, that is, the Deputy Commissioner, Barpeta [the respondent no. 3] on 07.02.2024. It is the grievance of the petitioners that despite submission of the Representation on 07.02.2024, the respondent no. 3 has not yet heard the petitioners and has not disposed of the representation.

4. In view of the nature of the issue raised in this writ petition, both Ms. Mahanta, learned Standing Counsel, Revenue & Disaster Management Department and Mr. Baruah, learned Junior Government Advocate, Assam appearing for the State respondents have conjointly submitted that since the petitioners have already submitted the Representation before the respondent no. 3, the writ petition can be disposed of, at the motion stage itself, with a direction to the respondent no. 3 to consider the Representation after affording opportunities of hearing to both the sides.

5. Mr. Ahmed, learned counsel for the petitioner has agreed to the submissions made on behalf of the State respondents.

6. In view of the broad consensus arrived at by the learned counsel for the parties in the afore-stated manner, this Court is of the considered view that

instead of keeping this writ petition pending, the same can be disposed of with a direction to the respondent no. 3 to take the Representation, stated to have been submitted by the petitioners the receipt of which was acknowledged by the office of the respondent no. 3 on 26.02.2024 under seal and signature, on board and to dispose of the same thereafter, by way of a speaking order, after affording opportunities of hearing to both the sides including the respondent nos. 5 & 6. It is accordingly directed. As it has been directed that the respondent nos. 5 & 6 should be afforded due opportunity of hearing before passing of the speaking order, the process of issuance of notices to them is found expedient to be dispensed with. For the purpose of facilitating the respondent no. 3 to dispose of the Representation, the petitioners shall submit a certified copy of this order and a copy of this writ petition along with annexures, at his office within a period of 10 days from today and the respondent no. 3 shall thereafter, complete the entire process as expeditiously as possible, preferably within a period of 45 days from the date of receipt of a certified copy and the copy of the writ petition along with annexures from the petitioners. It is further observed that the representation is to be considered by the respondent no. 3 on its own merits and in accordance with law as this Court has not observed anything on the merits of the rival claims of any of the parties.

7. With the observation made and the direction given above, the writ petition stands disposed of.

JUDGE

Comparing Assistant