

GAHC010086062024



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

Case No. : MC/29/2024

DEOKI BERIA
S/O SRI SITARAM BERIA, R/O SAKTI TRADERS, MORAN TOWN, P.O. AND
P.S.MORAN, DIST. DIBRUGARH, ASSAM, PIN 785669

VERSUS

THE ASSAM BOARD OF REVENUE AND 2 ORS
GUWAHATI, PIN 781001, ASSAM

2:BIKRAM SINGH

S/O HEMO SINGH
R/O WARD NO. 4
SANTIPUR
P.O. AND P.S. MORANHAT
DIST. CHARIDEO
ASSAM.

3:VIVEKANANDA PHUKAN

EX MEMBER
ASSAM BOARD OF REVENUE GUWAHATI
R/O FLAT NO. 204
APURBA BEAUTY APARTMENT
SEWALI PATH
P.O. HATIGAON
GUWAHATI 38
KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. K KALITA

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

22.05.2024

Heard Mr. S.K. Kejriwal, learned counsel for the petitioner. Also heard Ms. N. Bordoloi, learned Standing Counsel, Revenue.

2. By this application, the writ petitioner is seeking restoration of WP(C) No.5464/2021.
3. Due to non appearance of the petitioner on 22.04.2024, this Court earlier dismissed the connected writ petition for non-prosecution. Against the said order dated 22.04.2024 the applicant is seeking restoration.
4. I have heard learned counsels for the parties and perused the grounds cited in the application.
5. Paragraph No. 8 of the application is reproduced hereinbelow for ready reference-

“8. That the Applicant begs to state that there was no fixed date in the matter and the matter came up in usual course for admission hearing on 22.04.2024 as item No. 20 before the Court No.23 in Daily Cause List under the heading of Civil Bench-IV & V. In this Case, Sr. Counsel Late S N Sarma who was leading the matter had unfortunately expired on 05.11.2022 and on that particular day, Mr. S K Kejriwal, Advocate engaged in the matter was on leave and a Letter of absence was also reflected in the Cause List of 22.04.2024. Further, Advocate R. Ali was in disposed because of his illness. Mr. K. Kalita, Advocate who was supposed to appear in the matter on that day was however unable to appear when the matter was called up, he being on legs in a different matter in another Court. Accordingly, when the matter was called up before the

Hon'ble Court, no counsel from the applicants' side could appear before this Hon'ble Court to represent the applicant. The Hon'ble Court accordingly was pleased to dismiss the matter on the ground of non-prosecution. Accordingly now this application for restoration has being preferred."

6. A reading of the averments made in the application it appears that this case was earlier lead by Sri S.N. Sarma, learned Sr. Advocate and after his demise, Mr. S.K. Kejriwal, learned advocate was engaged in the matter. However, on 22.04.2024 when the matter was called Mr. S.K. Kejriwal, learned advocate was on leave, which is reflected in the cause list dated 22.04.2024 which is enclosed as Annexure-1 to the application. It further appears from the averments made therein that Mr. R. Ali, learned advocate who is also an engaged as a counsel in the matter was indisposed on that day because of his illness. It further appears that Mr. K. Kalita, learned counsel, who was supposed to appear in the matter on that day, however, was unable to appear when the matter was called, as he was in legs in a different matter in another Court.

7. The aforesaid grounds appear to be sufficient.

8. As such, It is directed that the writ petition shall be restored to its original file with a token cost of Rs.5,000/- to be submitted with the Gauhati High Court (Principal Seat) Employees Association.

9. Accordingly, this application stands allowed and disposed of.

JUDGE

Comparing Assistant