

GAHC010091332024



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

Case No. : WP(C)/2527/2024

TUHIN DAS AND ANR
SON OF LATE S.N. DAS,
EX-DIRECTOR OF THE COMPANY,
RESIDING AT P-569, LAKE TERRACE EXTENSION,
KOLKATA- 700029.

2: KAMINI TEA ESTATE COMPANY LIMITED
HAVING ITS REGISTERED OFFICE AT
DIKAREREPURA BHAWAN
459 LAKE TERRACE

KOLKATA- 700029

VERSUS

ASSAM TEA EMPLOYEES PROVIDENT FUND ORGANISATION AND 6 ORS
HAVING ITS OFFICE AT NIDHI BHAWAN,
LALMATI, BASISTHA, GUWAHATI- 781029.

2:SUROJEET DAS
COMMISSIONER
ASSAM TEA EMPLOYEES PROVIDENT FUND ORGANIZATION

HAVING ITS OFFICE AT NIDHI BHAWAN

LALMATI
BASISTHA
GUWAHATI- 781029.

3:RECOVERY OFFICER
ASSAM TEA EMPLOYEES PROVIDENT FUND ORGANIZATION
DIBRUGARH ZONE

HAVING ITS OFFICE AT MILAN NAGAR (WEST)

POST OFFICE-C.R. BUILDING

DIBRUGARH- 786003.

4:OFFICIAL LIQUIDATOR
HIGH COURT AT CALCUTTA
HAVING ITS OFFICE AT 9
OLD POST OFFICE STREET

KOLKATA- 700001.

5:RAJIV JAIN
SON OF SRI MAHAVIR PRASAD JAIN

RESIDING AT COLE ROAD

NEW MARKET
DIBRUGARH- 786001.

6:LENGRAI TEA LIMITED
HAVING REGISTERED OFFICE AT 5/7

BUROSHIBTALA (MAIN) ROAD

BUILDING NO. 15
5B
KOLKATA- 700038.

7:JAY PRAKASH BERIWAL
WORKING FOR GAIN AT LENGRAI TEA LIMITED

5/7
BUROSHIBTALA (MAIN) ROAD

BUILDING NO. 15
5B
KOLKATA- 700038

Advocate for the Petitioner : MR SISHIR DUTTA

Advocate for the Respondent : SC. P.F.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

27.05.2024

Head Mr. S. Dutta, learned Senior Counsel assisted by Mr. S. Dutta, learned counsel for the petitioner. Also heard Mr. N.C. Das, learned Senior Counsel assisted by Ms. J. Baishya, learned counsel for the respondents no. 1, & 3.

2] The petitioner claims to be a contributory in one Kamini Tea Estate which was located at Hoogrijan in the District of Dibrugarh. Pursuant to the Company Petition being CP No.593/2000 which was filed before the High Court of Calcutta under Sections 433, 434 and 439 of the Companies Act, 1956, the Calcutta High Court by order dated 30.01.2002 directed winding up the said company and appointed the Official Liquidator. The Official Liquidator took possession of the registered office of the Kamini Tea Estate situated at Kolkata. Subsequently, claims of the employees provident fund was also settled in respect of the claims raised. On 23.02.2023 the notice in respect of the Kamini Tea Estate was published regarding the selling and transferring of the assets. It is the claim of the writ petitioner that the said notice was issued without any prior notice to the writ petitioner. That apart, he submits that as per Section 456 of the Companies

Act, 1956, the Official Liquidator is required to request the District Magistrate in writing in whose jurisdiction property is situated before the property is taken over for auction. According to the learned Senior Counsel for the petitioner, the property was sold at Rs.4,13,90,369/-. It is submitted that the Tea Estate has been sold at a controllable price disregarding all procedures and Rules and Regulations prescribed under the Companies Act, 1956.

3] Learned Senior Counsel for the petitioner submits that the petitioner is before this Court praying for an appropriate direction or order to call for all the relevant records/files/documents pertaining to the sale of the Kamini Tea Estate to the respondent no.6.

4] On earlier occasion this Court by order dated 17.05.2024 had observed that the petitioner has to satisfy as to whether he is a 'person aggrieved'.

5] Mr. N.C. Das, learned Senior Counsel submits that the provident fund authority has already lodged their claim before the official liquidator regarding to the claim of provident fund deem to be paid to the authority concerned. It is also submitted by the learned Senior Counsel for the respondents that the Liquidation proceedings which was pending before the Calcutta High Court in the meantime has been closed.

5] Under such circumstances, this Court is of the view that considering the

prayer made in the writ petition seeking calling for relevant documents pertaining to the Kamini Tea Estate, this Court is not inclined to exercise its jurisdiction under the Article 226 of the Constitution of India at this stage. However, liberty is granted to the writ petitioner to approach the Calcutta High Court seeking redressal against any grievances which the petitioner may have against the liquidation proceedings initiated by the liquidator in respect of Kamini Tea Estate.

6] Writ petition stands closed in terms of the above.

JUDGE

Comparing Assistant