

GAHC010118762015



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

**Case No. : WP(C)/4255/2015**

PABITRA BHUYAN and 3 ORS.  
S/O LT. GADADHAR BHUYAN

2: KABINDRA BHUYAN

3: DHRUBA BHUYAN  
BOTH ARE S/O OF LT. BIPIN BHUYAN

4: ALAKA BHUYAN  
W/O LT. BIPIN BHUYAN  
ALL ARE R/O MAZIR GAON  
P.O. PALASHBARI AGCHIA  
DIST- KAMRUP METRO  
ASSA

VERSUS

THE STATE OF ASSAM AND 6 ORS  
REP. BY THE SECY. REVENUE DEPTT., DISPUR, GHY-6

2:THE ASSAM BOARD OF REVENUE  
REP. BY THE SECY. CUM ADMINISTRATIVE OFFICER  
GHY-1  
ASSAM

3:THE DY. COMMISSIONER  
KAMRUP  
DIST- KAMRUP

4:THE CIRCLE OFFICER  
AZARA REVENUE CIRCLE OFFICER  
AZARA  
DIST- KAMRUP

5:RABIN BHUYAN

6:DHIRAJ BHUYAN

7:TAPAN BHUYAN  
S/O LT. KAMALA KANTA BHUYAN  
ALL ARE R/O MAZIR GAON  
P.O. PALASHBARI AGCHIA  
GHY-17  
DIST- KAMRUP METRO  
ASSA

**Advocate for the Petitioner** : MR.S GOGOI, DR. R SARMAH,MS. M PAUL

**Advocate for the Respondent** : MR.P K KALITAR-5, 6 and 7, MR.M CHALIHA(R-5, 6 & 7),GA,  
ASSAM,MRR CHAKRABORTY(R-5, 6 & 7)

**BEFORE**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 30.08.2024**

Heard Mr. R Sarma learned counsel for the petitioner. Also heard Ms. S Sarma learned Jr. Government Advocate for the State respondent Nos.1 to 4 and Mr. R Chakraborty learned counsel for the respondent Nos.5 to 7.

By the present writ petition an order of mutation dated 19.03.2007 and 17.10.2012 passed by the Circle Officer, Azara Revenue Circle, whereby the names of the respondents were mutated in place of the petitioners in Dag No.1700, 1725 & 1704 was challenged before the learned ADC, Kamrup in Case No. K.R.C. (M) 9/2013/1033. However, by order dated 30.06.2014, learned ADC, Kamrup has also dismissed such challenge.

Being aggrieved, the petitioners preferred a revenue appeal before the Board of Revenue in R.A 57(K)/2014 & R.A.58(K)/2014,

however, the said revenue appeal was also dismissed by the learned Revenue Board.

Being aggrieved, the present writ petition is filed.

From the materials available on record, it is seen that the case of the petitioners is that by a registered sale deed No.23/40 dated 30/01/40 one late Gadadhar Kalita purchased 25 bigha 3 katha 9 lechas of land from one Jogendra Nath Sarma. The said land is subject matter of the dispute in the aforesaid litigation.

According to the learned counsel for the petitioner, said Gadadhar Kalita was the predecessor in interest of the petitioners and accordingly on his death the names of the petitioners were recorded in the records of right.

On the other hand, the respondents claims that the petitioners are having no possession over the suit land and they also inherited the land from said Gadadhar Kalita being their ancestral land and they are possessing the aforesaid land and therefore, the Deputy Commissioner on the basis of actual possession has rightly deleted the name of the petitioners and incorporated their names by inheritance.

From the materials available on record, the dispute basically pertains to right of inheritance of said Godadhar Kalita. The petitioners claim to inherit the land from said Godadhar Kalita. The respondents on the other hand contends that under a mutual settlement dated 05.08.1981 between said Godadhar Kalita and the predecessors of the petitioners, the petitioners had inherited the property on the basis of such settlement.

The learned counsel for the petitioners has disputed such settlement and at the same time the learned counsel for the respondents has asserted their rights on the basis of such settlement. Therefore, in the considered opinion of this court the dispute finally is to be resolved as regards the title of the petitioners or the respondents as they have claimed i.e., either inheritance or through mutual family settlement.

That being the position the learned Deputy Commissioner and the learned Revenue Board instead of entering into the merit of the claim and counter claim touching the title ought to have relegated the parties to the Civil Court for determination of their right title and interest over the suit property/disputed property.

In view of the aforesaid, the present petition is disposed of by giving liberty to the parties to approach the competent Civil Court permissible under law seeking their right title and interest over the suit premises.

It is made clear that the order passed by the Circle Officer, Additional Deputy Commissioner and the Board of Revenue shall be subject to outcome of such determination that can be made by a Civil court. The parties shall maintain the status of the land as on today and till they approach the Civil Court or an injunction is granted, whichever is earlier.

With the aforesaid, the present writ petition stands disposed of.

**JUDGE**