

GAHC010118862019



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

Case No. : WP(C)/3579/2019

NABADWIP SHIL AND ANR.

S/O- LATE JATINDRA KUMAR SHIL, R/O- VILL- SHIL BASTI, COLLEGE
ROAD, LANKA MB AREA, P.O AND P.S- LANKA, WARD NO.7, DIST- HOJAI,
ASSAM, PIN- 782446

2: GITA RANI KAR

D/O- LATE JATINDRA KUMAR SHIL
R/O- VILL- SHIL BASTI
COLLEGE ROAD
LANKA MB AREA
P.O AND P.S- LANKA
WARD NO.7
DIST- HOJAI
ASSAM
PIN- 78244

VERSUS

THE STATE OF ASSAM AND 4 ORS

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
MUNICIPAL ADMINISTRATION DEPTT, DISPUR, GUWAHATI- 06

2:THE DEPUTY COMMISSIONER

HOJAI
DIST- HOJAI
ASSAM

3:LANKA TOWN COMMITTEE

REP. BY THE CHAIRMAN
LANKA TOWN COMMITTEE
NEAR BIJOYA GHAT
SHILLONG ROAD
DIST- HOJAI
ASSAM

4:THE EXECUTIVE OFFICER
LANKA TOWN COMMITTEE
NEAR BIJOYA GHAT SHILLONG ROAD
DIST- HOJAI
ASSAM

5:DHIRENDRA KUMAR SHIL @ MANTU SHIL
S/O- LATE NAGENDRA KR SHIL
R/O- LANKA TOWN
P.O AND P.S- LANKA
WARD NO.7
DIST- HOJAI
ASSAM
PIN- 78244

Advocate for the Petitioner : MR. R J SAIKIA, MR. L N DIHINGIA,MR. A K SAHU

Advocate for the Respondent : GA, ASSAM, MR. K GOGOI,MR. S ISLAM (r-3),MR. A K TALUKDAR (r-3),S. I. KHAN (r-3),MR. A B T HAQUE,MR. J M A CHOUDHURY

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 17.09.2024

Heard Mr. S Borthakur learned counsel for the petitioners, Mr. K Gogoi learned counsel for the respondent Nos.1, 2 & 4, Mr. A.K. Talukdar learned counsel for the respondent No.3 and Mr. J.M.A Choudhury learned counsel for respondent No.5.

The grievance raised by the petitioners is to the effect that the petitioners predecessor in interest was an allottee of a Municipal shop, Shop No.17 in Block (1) B at Lanka Daily Bazar under Lanka Town Committee. It is alleged by the petitioners that after death of their father, behind their backs, the allotment was modified and the

name of the respondent No.5 was incorporated as allottee along with the petitioner No.1.

It is the case of the petitioners that the respondent No.5 is their cousin and taking advantage of being a permanent employee of Lanka Town Committee and claiming to be legal heirs of the original allottee (deceased father of the petitioners), he got his name incorporated.

It is also the allegation of the petitioner that there was no joint application inasmuch as his signature was forged and in this regard already an FIR has been lodged.

On the other hand, it is the case of the respondent No.5 that his name was incorporated as allottee in terms of a joint application made by the petitioner No.1 and the respondent No.5 and such material fact has been withdrawn and therefore, there is no illegality in such allotment.

Mr. Gogoi learned counsel in his usual fairness submits that he has obtained instructions that the respondent No.5 was an Assistant Tax Daroga under the Town Committee and the petitioner No.1 was a daily wage earner under the Lanka Town Committee.

It is the prayer of the petitioners that they have already raised the issue before the Lanka Town Committee and therefore the matter may be relegated to the authority to decide as regards the entitlement of the petitioners as well as of the respondent No.5 of being an allottee of the shop in view of the death of the original allottee.

Mr. Gogoi learned counsel has also submitted that since some disputes are there between the contesting parties, the respondent Nos.3 and 4 shall be the best authority to decide the issue and therefore, the matter may be relegated to the same. Learned counsel appearing for the Lanka Town Committee submits that the respondent Nos.3 and 4 may be allowed to review the issue and to look into under what circumstances the name of the respondent No.5 was incorporated as joint allottee of the shop.

The learned counsel for the respondent No.5 has also not objected to such prayer.

Accordingly the writ petition stands disposed of by permitting the petitioners to file a fresh representation before the respondent Nos.3 & 4 raising their claims including their prayer for cancelation of name of respondent No.5 as allottee of the shop in question.

On such application being filed, the respondent Nos.3 & 4 shall consider such representation and pass a speaking order in terms of extant Services Rules of Municipal Employees and the Assam Municipal Act, 1956, more particularly as regards the entitlement of allotment in terms of inheritance on the death of original allottee.

While making such decision a reasonable opportunity of hearing shall also be given to the respondent No.5 as he has also asserted his rights.

The entire exercise be carried out within a period of three

months from the date of receipt of a certified copy of this order to be furnished by the petitioner.

JUDGE

Comparing Assistant