

GAHC010142462023



AS:11792-DB

2024:GAU-

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

Case No. : Review.Pet./99/2023

GABINDA DEB
S/O- LATE GAJENDRA CH. DEB, R/O- LONGAI ROAD, WARD NO- 3 (NEW),
P.O.- SETTLEMENT ROAD, P.S. AND DIST.- KARIMGANJ, ASSAM.

VERSUS

BIJOY KRISHNA DAM AND 5 ORS.
S/O- LATE ANIL RANJAN DAM, RESIDENT OF LONGAI ROAD, WARD NO. 2
(OLD)/3 (NEW), P.O.- SETTLEMENT ROAD, DISTRICT.- KARIMGANJ,
ASSAM, PIN- 788722.

2:THE STATE OF ASSAM
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
HOUSING AND URBAN AFFAIRS DEPTT.
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER
KARIMGANJ
ASSAM.

4:THE CIRCLE OFFICER
KARIMGANJ
ASSAM.

5:THE EXECUTIVE OFFICER
KARIMGANJ MUNICIPAL BOARD
KARIMGANJ
ASSAM.

6:THE CHAIRMAN

KARIMGANJ DEVELOPMENT AUTHORITY
KARIMGANJ

Advocate for the Petitioner : MR H R A CHOUDHURY, MR. S K GHOSH,MR F U BARBHUIYA,MR. M ALAM,MR. M A CHOUDHURY

Advocate for the Respondent : MS F AHMED, MS. AN HUSSAIN,MR. S BANIK

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 28.11.2024

Heard Mr. S.K. Ghosh, learned counsel for the review petitioner. Also heard Mr. S. Banik, learned counsel for the respondent no.1 (writ petitioner).

2. By filing this review petition, the petitioner, who was arrayed as respondent no.6 in WP(C) 1749/2022, has prayed for review/modification/clarification of the order dated 20.01.2023, passed by this Court in the said writ petition.

3. The learned counsel for the petitioner, by referring to the stand taken in paragraph-4 of the affidavit-in-opposition filed by the petitioner as respondent no.6 in the writ petition, has submitted that the stand of the petitioner therein was that his wife Smt. Subha Rani Deb (since deceased) was the owner of the land, referred therein, by virtue of the registered sale deed, referred therein. It is submitted that upon the death of his wife, the petitioner, being the husband, has a right of inheritance over the property left behind by his wife. Accordingly, it is submitted that the response by the earlier counsel appearing for the petitioner while responding to the Court's query in the writ petition that the petitioner is not the owner of the property in question, is an erroneous

submission, which ought not to be allowed to extinguish the right of inheritance of the review petitioner over the property in reference.

4. On the said stand of the petitioner, the learned counsel for the respondent no.1 has submitted that on 20.01.2023, when the matter was heard, to the specific query of the Court, the response as recorded in paragraph-3 of the order dated 20.01.2023 was given and there was no error in recording of the said statement.

5. Be that as it may, in view if the stand taken by the petitioner by filing this review petition, the Court is inclined to clarify that notwithstanding the observation made in paragraph-3 of the order dated 20.01.2023, passed in WP(C) 1749/2022, the same shall not come in the way of the petitioner to assert his right, title and interest over the land and house referred therein. Accordingly, it is further clarified that the said order dated 20.01.2023 shall not come in the way of the petitioner, namely, Gobinda Deb to participate in the proceedings before the Karimganj Municipal Board (the name of the district has now been altered to Sribhumi).

6. The learned counsel for the respondent no.1 has submitted that an order has been passed today i.e. 28.11.2024 by a coordinate Bench of this court in WP(C) 7620/2023, thereby granting 45 (forty five) days time to the Karimganj Municipal Board from 16.12.2024 to decide the representation by the respondent no.1. Accordingly, it is provided that notwithstanding the observation/direction contained in paragraph-6 of the order dated 20.01.2023, passed in WP(C) 1749/2022 in connection with the representation under reference, we further provide that the petitioner herein, if so advised, as well as the respondent no.1 shall appear before the competent authority under the Karimganj Municipal Board on or before 16.12.2024 so as to enable the said

Board and its competent authority to examine and decide on the grievance of the parties, which are within its scope.

7. Accordingly, the parties shall appear before the Karimganj Municipal Board on or before 16.12.2024, along with a certified copy of this order so that the dispute between the parties can be disposed of analogously.

8. The direction contained in paragraph-3 and 6 of the order dated 20.01.2023 passed in WP(C) 1749/2022, stands modified and clarified to the extent as indicated above. Accordingly, this review petition stands allowed and disposed of.

9. This order shall be read together with order dated 20.01.2023 passed in WP(C) 1749/2022.

JUDGE

Comparing Assistant