

GAHC010155972024



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

Case No. : WP(C)/3939/2024

BOGEN OZA
S/O- LATE BHOGIRAM OZA @ BHOGMON OZA,
R/O- VILLAGE- KHAMON KONWAR GAON,
P.O- BAHPARA,
P.S- DHAKUAKHANA, DIST- LAKHIMPUR, ASSAM, PIN-787055

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, REVENUE AND
DISASTER MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-06

2:THE DISTRICT COMMISSIONER
LAKHIMPUR

P.O AND P.S- LAKHIMPUR
PIN-787001

3:THE ADDL. DISTRICT COMMISSIONER
(REVENUE)
LAKHIMPUR
ASSAM

4:THE SUB DIVISIONAL OFFICER
DHAKUAKHANA REVENUE CIRCLE
P.O AND P.S- DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM
PIN-787055

5:THE CIRCLE OFFICER
DHAKUAKHANA REVENUE CIRCLE

P.O AND P.S- DHAKUAKHANA
DIST.- LAKHIMPUR
ASSAM
PIN-787055

6:JITEN OZA

S/O- LATE NOMAL OZA

R/O- VILLAGE LACHIT NAGAR
NEAR IN FRONT OF NURSING SCHOOL

P.O- KHOBOLIA

P.S AND DIST- DHEMAJI
ASSAM
PIN-78705

For the petitioner (s) : Mr. M. H. Ahmed, Advocate

For the respondent (s) : Mr. A. Bhatta, Advocate
Mr. J. Handique, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

07.08.2024

Heard Mr. M. H. Ahmed, the learned counsel appearing on behalf of the petitioner. Mr. A. Bhatta, the learned counsel appears on behalf of the respondent No.1 and Mr. J. Handique, the learned counsel appears on behalf of the respondent Nos.3, 4 & 5.

2. Taking into account the order which this Court proposes to pass in the instant proceedings, issuance of notice upon the respondent No.6 is dispensed with.

3. The petitioner herein has filed the instant writ petition for stalling the

partition proceedings pending before the District Commissioner, Lakhimpur filed by the respondent No.6. The reason for approaching this Court is that the petitioner's mutation application is pending, and as such, in absence of the decision in the mutation application if a partition is carried out, the petitioner would be affected. This Court has also taken note of the objections which have been filed by the petitioner before the District Commissioner, Lakhimpur. The said objections, however, do not seem to be in consonance with the provisions of Section 100 of the Assam Land and Revenue Regulation, 1886. The learned counsel appearing on behalf of the petitioner submits that the petitioner has right over the land wherein the partition has been sought for. If that be so, this Court fails to understand why the petitioner has not filed any application bringing to the attention of the District Commissioner, Lakhimpur about the said aspect. It is well settled principle of law that if there is a dispute as regards the title over the property, the Revenue Authority has to relegate the parties to the Civil Court before proceeding with the partition. Under such circumstances, this Court does not find the instant writ petition a fit case for exercising the powers of judicial review, and accordingly, the instant writ petition stands dismissed.

4. However, the petitioner is always at liberty to approach the District Commissioner, Lakhimpur and file objection in the partition proceedings within the ambit of law.

JUDGE

Comparing Assistant