

GAHC010161392024



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

Case No. : I.A.(Civil)/2521/2024

ANJANA BOSE AND 2 ORS
W/O LATE SHYAMAL BOSE,
RESIDENT OF VILLAGE PUSPAKPUR, PO MILANPUR, PS AND DIST
NALBARI, ASSAM 781337
PERMANENT ADDRESS DIPALI NAGAR, BALURGHAT, PO BALURGHAT, PS
BALURGHAT, DIST SOUTH DINAJPUR, W.B

2: SANGITA BOSE
D/O LATE SHYAMAL BOSE

RESIDENT OF VILLAGE PUSPAKPUR
PO MILANPUR
PS AND DIST NALBARI
ASSAM 781337
PERMANENT ADDRESS DIPALI NAGAR
BALURGHAT
PO BALURGHAT
PS BALURGHAT
DIST SOUTH DINAJPUR
W.B

3: NANDITA BOSE
D/O LATE SHYAMAL BOSE

RESIDENT OF VILLAGE PUSPAKPUR
PO MILANPUR
PS AND DIST NALBARI
ASSAM 781337
PERMANENT ADDRESS DIPALI NAGAR
BALURGHAT
PO BALURGHAT
PS BALURGHAT
DIST SOUTH DINAJPUR
W.

VERSUS

KALPANA DAS BASU AND 5 ORS
W/O LATE SHYAMAL BOSE
RESIDENT OF SONPUR WARD NO. 9 NALBARI TOWN, PO AND DIST
NALBARI, ASSAM 781335

2:THE STATE OF ASSAM
REPRESENTED BY THE DISTRICT COMMISSIONER
NALBARI
BARAMA ROAD
PO AND DIST NALBARI
ASSAM 781335

3:TINKUMONI BORA
THE CIRCLE OFFICER
NALBARI REVENUE CIRCLE
PO AND DIST NALBARI
ASSAM 781335

4:SRI BHABEN DAS
LOT MANDAL NALBARI REVENUE CIRCLE
PO AND DIST NALBARI
ASSAM 781335

5:THE CIRCLE OFFICER (PRESENT)
NALBARI REVENUE CIRCLE
PO AND DIST NALBARI
ASSAM 781335

6:SRI SAMIN DEKA
VILLAGE HEADMAN
VILLAGE SARIAHTALI
PO MILANPUR
PS AND DIST NALBARI
ASSAM 78133

Advocate for the Petitioner : MR S C PANDIT, MD S ULLAH
Advocate for the Respondent : GA, ASSAM,

Linked Case :

WA No. 9028/2024 (Filing Number)

ANJANA BOSE AND 2 ORS

VERSUS

KALPANA DAS BASU AND 5 ORS H

Advocate for : MR S C PANDIT
Advocate for : appearing for KALPANA DAS BASU AND 5 ORS H

Linked Case : I.A.(Civil)/2522/2024

ANJANA BOSE AND 2 ORS
W/O LATE SHYAMAL BOSE
RESIDENT OF VILLAGE PUSPAKPUR
PO MILANPUR
PS AND DIST NALBARI
ASSAM 781337 PERMANENT ADDRESS DIPALI NAGAR
BALURGHAT
PO BALURGHAT
PS BALURGHAT
DIST SOUTH DINAJPUR
W.B

2: SANGITA BOSE
D/O LATE SHYAMAL BOSE

RESIDENT OF VILLAGE PUSPAKPUR
PO MILANPUR
PS AND DIST NALBARI
ASSAM 781337
PERMANENT ADDRESS DIPALI NAGAR
BALURGHAT
PO BALURGHAT
PS BALURGHAT
DIST SOUTH DINAJPUR
W.B

3: NANDITA BOSE
D/O LATE SHYAMAL BOSE

RESIDENT OF VILLAGE PUSPAKPUR
PO MILANPUR
PS AND DIST NALBARI

ASSAM 781337
PERMANENT ADDRESS DIPALI NAGAR
BALURGHAT
PO BALURGHAT
PS BALURGHAT
DIST SOUTH DINAJPUR
W.B
VERSUS

KALPANA DAS BASU AND 5 ORS
W/O LATE SHYAMAL BOSE RESIDENT OF SONPUR WARD NO. 9 NALBARI
TOWN
PO AND DIST NALBARI
ASSAM 781335

2:THE STATE OF ASSAM
REPRESENTED BY THE DISTRICT COMMISSIONER
NALBARI
BARAMA ROAD
PO AND DIST NALBARI
ASSAM 781335

3:TINKUMONI BORA
THE CIRCLE OFFICER
NALBARI REVENUE CIRCLE
PO AND DIST NALBARI
ASSAM 781335

4:SRI BHABEN DAS
LOT MANDAL NALBARI REVENUE CIRCLE
PO AND DIST NALBARI
ASSAM 781335

5:THE CIRCLE OFFICER (PRESENT)
NALBARI REVENUE CIRCLE
PO AND DIST NALBARI
ASSAM 781335

6:SRI SAMIN DEKA
VILLAGE HEADMAN
VILLAGE SARIAHTALI
PO MILANPUR
PS AND DIST NALBARI
ASSAM 781337

For the petitioner/appellant(s) : Mr. Sunil Ch. Pandit, Advocate

For respondent(s) : Ms. R.B. Bora, Jr. GA, Assam

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE SUMAN SHYAM

28.08.2024

(Vijay Bishnoi, CJ)

The matter has come up for consideration of Interlocutory Applications No. 2521/2024 and 2522/2024.

In I.A. No. 2521/2024, the applicants have prayed for condoning the delay of 343 days in filing the connected writ appeal against the order dated 31.07.2023, passed by the learned Single Judge in WP(C) No. 4284/2023.

I.A. No. 2522/2024 is preferred on behalf of the applicants seeking leave to file appeal against the order dated 31.07.2023, passed in WP(C) No. 4284/2023.

The non-applicant No. 1, Kalpana Das Basu had filed the writ petition No. 4284/2023 before the Writ Court raising the grievance that she, being the owner and possessor of a plot of land measuring 25 Bighas, covered by Dag Nos. 112, 123, 116, 117, 122. 110, 124, 125, 129 and 170 of K.P. Patta No. 52 of village Saraiatali under Batahgila Mauza in the district of Nalbari, Assam, had approached the authorities concerned for demarcation of the said plot of land because some unknown persons had tried to encroach over her said plot of land, but her application was not considered and, consequently, demarcation of the land could not take place.

The learned Single Judge has disposed of the writ petition directing the petitioner Kalpana Das Basu to furnish all necessary documents along with the format before the authority concerned for demarcation of the land with further direction to the

authorities to complete the demarcation exercise within a period of two months. The learned Single Judge has further observed that the affected parties are to be given an opportunity of hearing before passing final orders.

Learned counsel appearing for the applicants submits that by the order passed by the learned Single Judge, the rights of the applicants are going to be affected because they are the real owners of the land in question. It is further submitted that the learned Single Judge has passed the impugned order without hearing the applicants, who are going to be affected by the demarcation. Learned counsel for the applicants has therefore prayed that leave be granted to the applicants to file writ appeal for challenging the order passed by the learned Single Judge and the delay in filing the connected writ appeal against the impugned order also be condoned.

Having heard the learned counsel for the applicants and after taking into consideration the fact that the demarcation proceedings pursuant to the order passed by the learned Single Judge have not been finalised till date and, further, in view of the observations made by the learned Single Judge, the affected parties, including the applicants are required to be heard before passing final orders by the respondent authorities responsible for demarcation of the land in question, we are of the view that no further adjudication by this Court is required on the matter. However, we expect that if the non-applicant Kalpana Das Basu approaches/has already approached the authorities concerned for demarcation of the land in question, the authorities concerned shall pass the final orders after providing opportunity of hearing to the applicants herein.

In view of the above, we do not find any case for condoning the delay in filing the connected appeal and also for granting leave to the applicants to file appeal challenging the order dated 31.07.2023 passed by the learned Single Judge in WP(C) No. 4284/2023.

Accordingly, I.A.s No. 2521/2024 and 2522/2024 are disposed of with the above

observations.

Resultantly, the connected writ appeal No. 9252/2024 (Filing Number) also stands disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant