

GAHC010185452024



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

**Case No. : CRP(IO)/338/2024**

SONA DAS SAIKIA AND ANR  
W/O- LATE TAPASH PROTIM SAIKIA, R/O- AMGURI TOWN, WARD NO. 4,  
P.O. AMGURI, DIST. SIVASAGAR, ASSAM

2: JAIESH PROTIM SAIKIA  
S/O- LATE TAPASH PROTIM SAIKIA  
R/O- AMGURI TOWN  
WARD NO. 4  
P.O. AMGURI  
DIST. SIVASAGAR  
ASSAM

VERSUS

PARTHA PROTIM SAIKIA AND ANR  
S/O- LATE UPEN SAIKIA, R/O- AMGURI TOWN, WARD NO. 4, P.O. AMGURI,  
DIST. SIVASAGAR, ASSAM

2:JIBON PHUKON  
S/O- BHOGRAM PHUKAN  
R/O- BARUAH PUKHURI  
CHAH BAGICHA  
P.O. BAGHJAN GRANT  
P.S. HALUATING  
SIVASAGAR  
ASSAM

**Advocate for the Petitioner** : MR. T BARUAH, MR. P BOIRAGI,MR. S J SARMAH,MR G G  
GOGOI,MS A DAS

**Advocate for the Respondent** : ,

**BEFORE  
HONOURABLE MR. JUSTICE ROBIN PHUKAN  
ORDER**

**30.09.2024**

Heard Mr. G.G. Gogoi, learned counsel for the petitioners.

**2.** In this petition, under Article 227 of the Constitution of India read with Section 115 of the C.P.C., the petitioners have prayed for setting aside/modifying the order dated 15.07.2024, passed in Petition No. 276/2024 and Petition No. 277/2024, in Title Suit No. 24/2022.

**3.** Mr. Gogoi, learned counsel for the petitioners submits that the petitioners as plaintiffs have instituted a title suit, being T.S. No. 24/2022, before the learned Civil Judge, Senior Division, Sivasagar for declaration of right, title & interest, recovery of possession, perfect partition, issue of precept, cancellation of sale deed and permanent injunction. Mr. Gogoi further submits that in the said suit, the respondent had filed written statement and thereafter, the petitioners have submitted the list of her witnesses and also filed one petition, being Petition No. 276/2024, under Order 13 Rule 10 of the C.P.C. for calling of original records/documents. And another petition, being Petition No. 277/2024, under Order 16 Rule 3 of the C.P.C. was also called for calling of official witnesses. But, the learned Civil Judge, Senior Division, Sivasagar had rejected the Petition No. 276/2024 and in respect of Petition No. 277/2024, had observed that "shall be disposed of after completion of evidence of listed witnesses of plaintiffs." Mr. Gogoi also submits that in the Petition No. 276/2024, the petitioners have prayed for calling of (a) Mutation order dated 09.12.1987, passed by the Deputy Collector, Sivasagar Revenue Circle with reference to Mutation Case No. 34/1987-88; (b) Mutation order dated 31.03.2018, passed by the Circle Officer, Sivasagar Revenue Circle with reference to Mutation Case No. SIB/SIV/2017-18/257/OMUT; (c) Mutation order dated 09.05.2019, passed by the Circle Officer, Sivasagar Revenue Circle with reference to Mutation Case No. SIB/SIV/2018-19/248/OMUT; (d) One Next of Kin

Certificate, dated 01.09.2016; and (e) One Sale Deed, being Deed No. 1213, dated 29.09.2021, which are available in the Sivasagar Revenue Circle Office/Land Revenue Branch, Deputy Commissioner's Office. Mr. Gogoi also submits that the petitioners have applied for furnishing certified copies of the aforesaid documents. But, the concerned authorities have not provided any documents being sought for by the petitioners and therefore, calling of the aforesaid records/documents from the aforesaid offices are very much necessary, in order to establish the case of the petitioners and therefore, it is contended to allow the petition.

**4.** Having heard the submission of learned counsel for the petitioners, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 15.07.2024.

**5.** It appears that in Title Suit No. 24/2022, two petitions, being Petition No. 276/2024 and Petition No. 277/2024 were filed and in Petition No. 276/2024, prayer is being made for calling of the aforesaid documents from the Revenue Branch of Deputy Commissioner and office of the Sub-Registrar of Sivasagar and in Petition No. 277/2024, for calling the Circle Officer, Additional Deputy Commissioner and Deputy Registrar of Sivasagar as official witnesses. It also appears that the learned trial court has kept the Petition No. 277/2024 pending, but dismissed the other petition, i.e. Petition No. 276/2024, on the ground that the documents required to be called for are public documents, which can be proved by furnishing certified copies of the same before the court

**6.** While rejecting the Petition No. 276/2024, the learned trial court has referred the Rule 106 of the Civil Courts Rules and Orders of Gauhati High Court, which provides that subject to any provision of the law to the contrary, the original of public and municipal records should not be called for when duly authenticated and certified copies of the same are admissible in evidence and will serve the purpose for which the records are required and as the documents, stated in the petitions are public

documents and custodians thereof are not courts, as per law, prayer for directing production of those documents/records is not maintainable.

**7.** But, from the additional affidavit filed by the petitioners it become apparent that the petitioners have applied for the said documents to the concerned authorities. But, the same were not provided to the petitioners. That being so, Rule 106 of the Civil Courts Rules and Orders of Gauhati High Court, based on which the learned trial court has dismissed the petition, to the considered opinion of this court is not applicable here in this case. That being so, the impugned order dated 15.07.2024, is arbitrary and fails to withstand the legal scrutiny and in the interest of justice, interference of the same is warranted.

**8.** Accordingly, the impugned order dated 15.07.2024, stands set aside and quashed. The learned trial court is directed to call for the aforementioned records/documents from the respective offices and thereafter, to proceed with the matter in accordance with law.

**9.** In terms of above, this petition stands disposed.

**Comparing Assistant**

**JUDGE**