

GAHC010185952018



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

Case No. : WP(C)/5934/2018

PARAN LEKHARU
S/O. LATE ANANTA LEKHARU, R/O. RUDRESWAR, MOUZA-
SILASINDURIGHOPA, KAMRUP, GUWAHATI, ASSAM, PIN- 781030.

VERSUS

THE STATE OF ASSAM AND 14 ORS.
REP. BY ITS SECRETARY, GOVT. OF ASSAM, DEPTT. OF REVENUE, DISPUR,
GUWAHATI-6.

2:ASSAM BOARD OF REVENUE
GUWAHATI
PIN- 781001.

3:ADDITIONAL DEPUTY COMMISSIONER

KAMRUP
AMINGAON 781031.

4:CIRCLE OFFICER

AMINGAON
781031

5:JATIN LEKHARU
SON OF LATE KRISHNA LEKHARU
R/O. RUDRESWAR
MOUZA- SILASINDURIGHOPA
KAMRUP
GUWAHATI
ASSAM
PIN- 781030.

6:MITUBON LEKHARU
SON OF LATE KRISHNA LEKHARU
R/O. RUDRESWAR
MOUZA- SILASINDURIGHOPA
KAMRUP
GUWAHATI
ASSAM
PIN- 781030.

7:MRINAL LEKHARU
S/O. LATE PRAFULLA LEKHARU
RAJGARH MAIN ROAD
RAINBOW COMPLEX
P.O. ULUBARI
GUWAHATI
KAMRUP(M)
PIN- 781007.

8:RATUL LEKHARU
S/O. LATE PRAFULLA LEKHARU
R/O. GANDHIBSTI
LALMATI ROAD NEAR HOUSE OF HEM BARUAH
P.O. SILPUKHURI
DIST. KAMRUP(M)
GUWAHATI
ASSAM
PIN- 781003.

9:SANGITA LEKHARU
W/O. NIRMAL LEKHARU
R/O. HAPPY VILLA
UZANBAZAR
P.O. UZANBAZAR
DISTRICT- KAMRUP(M)
GUWAHATI
ASSAM
PIN- 781001.

10:RAJIB LEKHARU
S/O. ARUN LEKHARU
R/O. MADHUPUR
NORTH GUWAHATI
AMINGAON
KAMRUP
PIN- 781030.

11:SANJIB LEKHARU

S/O. LATE ARUN LEKHARU. R/O. RUDRESWAR
MOUZA- SILASINDURIGHOPA
KAMRUP
GUWAHATI
ASSAM
PIN 781030.

12: BANAJIT LEKHARU
SON OF LATE ARUN LEKHARU
R/O. HAPPY VILLA
UZANBAZAR
P.O. UZANBAZAR
DIST. KAMRUP(M)
GUWAHATI
ASSAM
PIN- 781001.

13: PARTHA PRATIM LEKHARU
SON OF LATE LAKHI LEKHARU
R/O. RUDRESWAR
MOUZA- SILASINDURIGHOPA
KAMRUP
GUWAHATI
ASSAM
PIN 781030.

14: ANIRBAN LEKHARU
S/O. LATE LAKHI LEKHARU
R/O. RUDRESWAR
MOUZA- SILASINDURIGHOPA
KAMRUP
GUWAHATI
ASSAM
PIN- 781030

15: PITAMBAR LEKHARU
SON OF LATE BOLORAM LEKHARU
R/O. RUDRESWAR
MOUZA- SILASINDURIGHOPA
KAMRUP
GUWAHATI
ASSAM
PIN 781030

Advocate for the Petitioner : MR. S K GHOSH, MR. A GAUTAM, MR. C TALUKDAR, MR. S K DEKA, MR. T K BHUYAN, MR. J DEKA, MR. S SARMA, MS F AHMED

Advocate for the Respondent : SC, REVENUE, MR. P K KALITA (R5-R12), MR. K

BHATTACHARJEE (R5-R12),MS B TALUKDAR (R13-R15),MS. P BHATTACHARYA (R5-R12)

BEFORE

HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Petitioner : Mr.S. Sarmah, Sr. Adv.
Assisted by Mr. J. Deka, Adv.

For the Respondents : Mr.K. Bhattacharjee, Adv.
Mr. J. Handique,
Standing Counsel, Revenue Deptt.

Date of Hearing : 30.08.2024.

Date of Judgment : 30.08.2024.

JUDGMENT & ORDER (ORAL)

1. Heard Mr. S. Sarmah, learned Senior Counsel assisted by Mr. J. Deka, learned counsel appearing on behalf of the petitioner. Also heard Mr. K. Bhattacharjee, learned counsel for the respondent Nos. 5 to 15, and Mr. J. Handique, learned Standing Counsel for the Revenue Department.
2. It is the case of the petitioner that the name of the petitioner was mutated over a plot of land measuring 1 Bigha 4 Katha 19 Lecha under Dag No. 724 of Patta No. 203 and 3 Bigha 4 Katha 16 Lecha covered by Dag No. 723 of Patta No. 1 in Village Rudreswar under Silasindurighopa Mouza in the district of Kamrup in the 1996 and 2004 by way of inheritance being only legal heir of predecessor in interest of the petitioner namely Ananta Lekharu.
3. According to the petitioner, name of his father was mutated over the said land in the year 1935 on the basis of transfer made by his

grandmother Thaneswari Lekharu and the said property was self-acquired property of Thaneswari Lekharu.

4. However, it is the case of the private respondents that their predecessor-in-interest was the legal heirs of said Thaneswari Lekharu and therefore, by inheritance they are also entitled for the land in question and accordingly they preferred an appeal in the year 2015 which was registered as Appeal No.46/15-16 before the respondent No. 3, challenging the mutation order granted in favour of the petitioner and said appeal was dismissed by an order dated 06.12.2007.
5. Being aggrieved, the respondents filed the Revenue Appeal before the Assam Board of Revenue which was registered as Revenue Case No. 8 RA (K)/2018 and the learned Board of Revenue had allowed the prayer of the respondents for grant of mutation.
6. The Assam Board of Revenue in its order dated 02.08.2018, entered into the title of the land in question and held that the seven sons of Late Thaneswari Lekharu are entitled for mutation laid by their mother which was wrongly mutated in the name of one of the sons. Accordingly, the matter was remanded back to the concerned revenue authority to mutate the name of all the legal heirs of Late Thaneswari Lekharu. The Board of Revenue went to determine who are the legal heirs of Late Thaneswari Lekharu and what should be their shares whereas the petitioner claims to be the sole legal heir of Late Thaneswari Lekharu.
7. In the considered opinion of this Court, it is not the jurisdiction of a Revenue Board to determine and deliberate upon the title and share over

the disputed property. Therefore, the revenue authorities ought to have relegated the parties before the competent civil court to determine the dispute.

8. If the respondents claim their shares from Late Thaneswari Lekharu, they may very well seek partition of such land. At the same time, if the conduct of the respondents has clouded the right of the petitioner, he may approach the Civil Court for declaration of his right.
9. Therefore, in the considered opinion of this Court, the dispute can be determined by a competent Civil Court, not by revenue authority as well as by this Court in exercise of its power of judicial review. That being the position, the parties are relegated to the Civil Court seeking relief, determination of their respective rights, if so advised, and till such determination is made, status quo in respect of the land in question be maintained.
10. It is further provided that the correction of revenue record / mutation shall be subject to outcome of the civil proceeding that may be filed by the respective parties.

In the aforesaid, this writ petition stands disposed of.

JUDGE

Comparing Assistant