

GAHC010190302023



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

Case No. : I.A.(Civil)/2563/2023

ON THE DEATH OF JOGESH KALITA HIS LEGAL HEIR DIPANJALI DAS
KALITA
W/O LT. JOGESH KALITA, R/O NALBARI GOPAL BAZAR, BOROKURIA P.O.
GOPAL BAZAR, P.S. NALBARI, DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP .BY THE SECRETARY TO THE GOVT. OF ASSAM WATER RESOURCE
DEPTT. DISPUR, GUWAHATI-6

2:THE COMMISSIONER AND SECREYTARY
TO THE GOVT. OF ASSAM
REVENUE (GENERAL) DEPTT. DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER
NALBARI
DIST. NALBARI
ASSAM

4:THE CHIEF ENGINEER
WATER RESOURCE DEPTT. CHANDMARI GUWAHATI-3
KAMRUP (M) ASSAM

5:THE ADDITIONAL CHIEF ENGINEER
WATER RESOURCE DEPTT. CHANDMARI
GUWAHATI-3
DIST. KAMRUP (M) ASSAM

6:THE EXECUTIVE ENGINEER
NALBARI WATER RESOURCE DIVISION NALBAR

Advocate for the Petitioner : MR. J I BORBHUIYA

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/6321/2021

JOGESH KALITA
S/O LT. RAMESH CHANDRA KALITA
R/O NALBARI GOPAL BAZAR
BOROKURIA P.O. GOPAL BAZAR
P.S. NALBARI
DIST. NALBARI
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP .BY THE SECRETARY TO THE GOVT. OF ASSAM WATER RESOURCE
DEPTT. DISPUR
GUWAHATI-6

2:THE COMMISSIONER AND SECREYTARY
TO THE GOVT. OF ASSAM
REVENUE (GENERAL) DEPTT. DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER
NALBARI
DIST. NALBARI
ASSAM

4:THE CHIEF ENGINEER
WATER RESOURCE DEPTT. CHANDMARI GUWAHATI-3
KAMRUP (M) ASSAM

5:THE ADDITIONAL CHIEF ENGINEER
WATER RESOURCE DEPTT. CHANDMARI
GUWAHATI-3

DIST. KAMRUP (M) ASSAM

6:THE EXECUTIVE ENGINEER
NALBARI WATER RESOURCE DIVISION NALBARI

Advocate for : MR. J I BORBHUIYA

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 5 ORS.

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 22-01-2024

Heard Mr. A. Hussain, learned counsel for the applicant/petitioner. I have also heard Mr. K. Gogoi, learned Senior Government Advocate for the State and Mr. S. Dutta, learned counsel for respondent no. 2.

This is an application under Order 22 of the Code of Civil Procedure filed by the legal heir of late Jogesh Kalita, i.e, the petitioner in WP(C)/6321/2021 praying for substitution of her name as the petitioner in WP(C)/6321/2021, in place of the petitioner namely late Jogesh Kalita (since deceased), who expired on 15.04.2022.

The learned counsel for the applicant submits that the petitioner late Jogesh Kalita during his lifetime had filed the connected writ petition being WP(C)/6321/2021 under Article 226 of the Constitution of India for non release/payment of the admissible total outstanding bills amounting to Rs. 1,93,723/- (Rupees One lakh ninety three thousand seven hundred twenty three) payable to him for execution and implementation of the scheme namely F.D.R to ME along B/B of river Mora-Pagladia from N.H.Way to Tihu-Akhra PWD Road for 2005-06, in terms of order issued by the Executive Engineer, Nalbari E&D Division, Nalbari on 28.08.2006. During the pendency of the said WP(C)/6321/2021, her petitioner husband, late Jogesh Kalita expired on 15.04.2022, leaving behind the applicant to be the legal heir. It is submitted that the applicant is the legally married wife of late Jogesh Kalita, the petitioner in

WP(C)/6321/2021 and as such, prays for substitution of the name of the petitioner, by the applicant Dipanjali Das Kalita in place of late Jogesh Kalita in WP(C)/6321/2021. It is submitted that, since the applicant is the legal heir of the deceased, Jogesh Kalita, and the right in the writ petition still survives, the respondents will not be prejudiced if the petitioner in the writ petition is replaced by the present applicant Dipanjali Das Kalita, in place of late Jogesh Kalita (since deceased).

The learned counsel for the State raised no objection to the prayer made by the learned counsel for the applicant for substitution of the petitioner by Dipanjali Das Kalita in WP(C)/6321/2021, in place of the earlier petitioner late Jogesh Kalita (since deceased).

Considering the submission made and in view of the above fact and circumstances of the case as stated above, this application is allowed.

Accordingly, the name of the petitioner, Shri. Jogesh Kalita (since deceased) is substituted by the applicant Smti. Dipanjali Das Kalita. The petitioner shall file an amended cause title before the Registry within one week from today.

With the above observation, this interlocutory application stands allowed and disposed of.

JUDGE

Comparing Assistant