

GAHC010199202023



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

Case No. : WP(C)/5328/2023

ATIKUR RAHMAN
S/O LATE RUMENA RAHMAN, R/O HOUSE NO. 22, URBAN CITY COMPLEX,
NEAR INTERNATIONAL HOSPITAL, G.S. ROAD, GUWAHATI, DIST- KAMRUP
(M), ASSAM, PIN-781005

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED HEREIN BY THE DEPUTY COMMISSIONER, GOVT. OF
ASSAM, OFFICE OF THE DEPUTY COMMISSIONER, LICHUBAGAN,
HENGRABARI, GUWAHATI-36, DIST- KAMRUP (M), ASSAM

2:THE ADDL. DEPUTY COMMISSIONER
OFFICE OF THE DEPUTY COMMISSIONER (GOVT. OF ASSAM)
ADMINISTRATIVE BRANCH
LICHUBAGAN
HENGABARI
GUWAHATI-36
DIST- KAMRUP (M)
ASSAM

3:MRS. AFROZA RAHMAN
W/O LATE ADILUR RAHMAN
RAHMAN BUILDING
HOTEL DYNASTY
S.S. ROAD
LAKHTOKIA
GUWAHATI
DIST- KAMRUP (M)
ASSAM
PIN-781001

4:MISS AZANA RAHMAN
D/O LATE ADILUR RAHMAN
RAHMAN BUILDING
HOTEL DYNASTY
S.S. ROAD
LAKHTOKIA
GUWAHATI
DIST- KAMRUP (M)
ASSAM
PIN-78100

For the petitioner (s) : Mr. N. Das, Advocate

For the respondent (s) : Mr. M. Biswas, Advocate
Mr. B. Goswami, Addl. Advocate General

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

24.07.2024

Heard Mr. N. Das, the learned counsel appearing on behalf of the petitioner. Also heard Mr. B. Goswami, the learned Additional Advocate General, Assam appearing on behalf of the respondent Nos.1 & 2 as well as Mr. M. Biswas, the learned counsel appearing on behalf of the respondent Nos.3 & 4.

2. The instant writ petition has been filed by the petitioner challenging the order dated 03.02.2023 passed by the Assistant Commissioner & BO, Kamrup Metropolitan District, Guwahati.

3. This Court has duly perused the communication dated 03.02.2023. From a perusal of the said communication as well as the materials on record, it reveals that the Sub-Divisional Officer (S), Kamrup, Metropolitan District has issued a Next of Kin Certificate in favour of the respondent

Nos.3 & 4 on 26.03.2013. The said Next of Kin Certificate has been put to challenge by filing an application before the District Commissioner, Kamrup (M). On account of no order being passed in the said proceedings, a writ petition was filed before this Court which was registered and numbered as WP(C) No.6597/2022. This Court vide an order dated 26.10.2022 directed the Additional Deputy Commissioner to dispose of the said proceedings within one month from the date of receipt of the certified copy of the order provided the hearing in the proceedings is already over. Thereupon, it is seen that on account of non-compliance with the order, a Contempt Proceedings was filed being Cont.Cas(C) No.786/2022. The said Contempt Proceedings were however closed vide an order dated 19.07.2023 in as much as the impugned communication dated 03.02.2023 was placed before this Court showing compliance. This communication dated 03.02.2023 has been assailed in the instant proceedings.

4. This Court takes note of the contents of the impugned order which shows that in view of the pendency of Succession Case No.136/2013 before the learned Court of the District Judge, Kamrup (M) at Guwahati, the application so filed by the petitioner for cancellation of the Next of Kin Certificate dated 26.03.2013 was kept in abeyance. It has been submitted at the bar by the learned counsels appearing on behalf of both the parties that the proceedings being Succession Case No.136/2013 has already been disposed of. Under such circumstances, this Court is of the opinion that the authority concerned, i.e. the respondent No.2 can now take up the said application for cancellation of the Next of Kin Certificate for disposal in terms with the direction passed by this Court in its order dated 26.10.2022 in WP(C) No.6597/2022.

5. Accordingly, the instant petition stands disposed of with the above observations and directions.

6. Before parting with the record, this Court however finds it very pertinent to observe that the learned counsels appearing on behalf of the respondent State as well as the private respondents submitted that the petitioner herein has no right whatsoever on the property belonging to Late Adilur Rahman. Taking into account that this is a Writ Court, it would not be proper on the part of this Court to decide the said aspect. However, liberty is given to the private respondents to agitate the said aspect of the matter before the respondent No.2.

JUDGE

Comparing Assistant