

GAHC010210952023



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

Case No. : WP(C)/5540/2023

LILA HALOI AND 2 ORS
W/O- LATE TARANI HALOI
R/O- VILLAGE NIZ BANGSHAR,
P.O- BANGSHAR,
P.S- SUALKUCHI,
DIST-KAMRUP, PIN-781103, ASSAM

2: RITUMONI HALOI
S/O- LATE TARINI HALOI

R/O- VILLAGE NIZ BANGSHAR

P.O- BANGSHAR

P.S- SUALKUCHI

DIST-KAMRUP
PIN-781103
ASSAM

3: ARUP HALOI
S/O- LATE TARINI HALOI

R/O- VILLAGE NIZ BANGSHAR

P.O- BANGSHAR

P.S- SUALKUCHI

DIST-KAMRUP
PIN-781103
ASSA

VERSUS

THE GOVT OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR,
GUWAHATI-06

2:THE DEPUTY COMMISSIONER
KAMRUP DISTRICT
AMINGAON
GUWAHATI-31

3:THE REVENUE CIRCLE OFFICER
HAJO REVENUE CIRCLE
P.O- HAJO
DIST-KAMRUP
PIN-781102
ASSAM

4:DALIMI HALOI
W/O- LATE BIPUL HALOI

R/O- VILLAGE NIZ BANGSHAR

P.O- BANGSHAR

P.S- SUALKUCHI

DIST-KAMRUP
PIN-781103
ASSA

Advocate for the Petitioners : Mr. R. Ali, Advocate

Advocate for the Respondents : Mr. R. Borpujari, SC, Revenue
Ms. M. Barman, Govt. Advocate
Mr. S. Das, Advocate

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 13.08.2024

Date of Judgment : 13.08.2024

JUDGMENT AND ORDER (ORAL)

Heard Mr. R. Ali, the learned counsel appearing on behalf of the petitioners. Mr. R. Borpujari, the learned counsel appears on behalf of the Revenue Department, Government of Assam; Ms. M. Barman, the learned Government Advocate appears on behalf of the respondent Nos.2 & 3 and Mr. S. Das, the learned counsel appears on behalf of the respondent No.4.

2. The instant writ petition has been filed by the petitioners seeking a direction upon the respondent No.3 to comply with the direction passed by the respondent No.2 in Revenue Appeal No.17/2019-20 dated 27.01.2021 and for other consequential reliefs.

3. From the materials on record, it is seen that the petitioners claim that they are the owners of a plot of land measuring 1 katha 10 lechas covered by Dag No. 762 and included in Patta No.177 of Revenue Village-Niz Bangshar under Mouza-Pub Bangshar under Revenue Circle-Hajo. The name of the predecessor-in-interest of the petitioners one Tarani Haloi (since deceased) was duly mutated in the record of rights. In addition to that, another 5 lechas and 1 katha of land in the same Dag and Patta were mutated in the name of the predecessor-in-interest of the petitioners on 20.04.1998 and 15.03.2000 respectively. According to the petitioners, after the death of their predecessor-in-interest, the petitioners are the owners of 2 kathas 15 lechas of land of the said Dag and Patta. It is the further case of the petitioners that the respondent No.4 filed an application before the Circle Officer, Hajo Revenue Circle seeking mutation of the said land which the petitioners claim to be their land on the ground of inheritance by Mutation Case No.85/2018-19. Pursuant thereto, the respondent No.3 had mutated the name of the respondent No.4 in respect

to the said land which the petitioners claim to be their land. Being aggrieved, the petitioner No.2 preferred an Appeal before the Deputy Commissioner, Kamrup (Amingaon) on 12.09.2019. The said Appeal was registered and numbered as Revenue Appeal No.17/19-20. The said Appeal was disposed of by hearing both the parties vide an order dated 27.01.2021. A perusal of the said order so passed by the Additional Deputy Commissioner, Kamrup (Amingaon) shows that the learned Appellate Authority found no document in the name of the respondent No.4 and thereupon directed the respondent No.4 to file a case before the Civil Court. The respondent No.4 thereupon filed a Review Application. The Additional Deputy Commissioner, Kamrup (Amingaon) thereupon vide an order dated the 24.05.2021 observed that there was no basis found for granting mutation in favour of the respondent No.4 and further directed the respondent No.4 to file case before the higher Court. The petitioners thereupon represented before the respondent No.3 for compliance with the said orders dated 27.01.2021 and 24.05.2021 passed by the Additional Deputy Commissioner, Kamrup (Amingaon). However, as the respondent No.3 did not take any steps in that regard, the instant writ petition has been filed.

4. I have heard the learned counsels appearing on behalf of the parties to the instant proceedings and also given my anxious consideration to their submissions. This Court has duly perused the orders dated 27.01.2021 as well as the 24.05.2021 passed by the Additional Deputy Commissioner, Kamrup (Amingaon). It surprises this Court to take note of that the concerned authority who is a statutory Appellate Authority did not decide the Appeal wherein the question was involved as to whether the

mutation granted in favour of the respondent No.4 was in accordance with the provisions of law. The Additional Deputy Commissioner, Kamrup (Amingaon) vide the orders only observed that there was no record available to show that the respondent No.4 could have been granted mutation. However, the order of mutation so granted in favour of the respondent No.4 was not set aside. Under such circumstances, it is the opinion of this Court that no direction can be issued to the respondent No.3 to give effect to the orders passed by the Additional Deputy Commissioner, Kamrup (Amingaon) dated 27.01.2021 and 24.05.2021 in Revenue Appeal No.17/19-20.

5. Be that as it may, this Court also takes note of that the Additional Deputy Commissioner, Kamrup (Amingaon) was exercising the powers under Section 147 (a) of the Assam Land and Revenue Regulation, 1886 wherein the order of mutation made in favour of the respondent No.4 was questioned. The said Appellate Authority was statutorily obligated to decide the said Appeal as to whether the said mutation order was in accordance with the provisions of the Assam Land and Revenue Regulation, 1886 and the Rules framed therein under. However, as the orders dated 27.01.2021 and 24.05.2021 passed in Revenue Appeal No.17/19-20 do not show that there was any application of mind by the Additional Deputy Commissioner, Kamrup (Amingaon), in the interest of justice, this Court interferes with those orders passed by the Additional Deputy Commissioner, Kamrup (Amingaon) in the Revenue Appeal No.17-19-20 and directs the said authority to dispose of the said Appeal by deciding as to whether the mutation order made in favor of the respondent No.4 was in accordance with law. The said shall be done

within a period of 4 (four) months from the date a certified copy of the instant order is served upon the Additional Deputy Commissioner, Kamrup (Amingaon).

6. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant