

GAHC010281162023



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

Case No. : CRP(IO)/6/2024

ELISABA CHENGI PURTY
W/O MANSIT SINGHI (RAMU), R/O BETBARI, NO. 2 KONWR GAON, P.O.-
BETBARI, P.S. AND DIST-SIVASAGAR, ASSAM

VERSUS

MIKHA PURTY AND ANR
S/O LATE JWEL PURTY, R/O BETBARI NO. 2 KONWAR GAON, P.O.-
BETBARI, P.S. AND DIST-SIVASAGAR, ASSAM

2:THE DISTRICT COMMISSIONER
SIVASAGAR
P.O.
P.S. AND DIST-SIVASAGAR
ASSA

Advocate for the Petitioner : MR I HASSAN

Advocate for the Respondent : GA, ASSAM (R2)

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 10-01-2024

Heard Mr. I Hasan learned counsel for the petitioner and Ms.
K Phukan learned counsel for the respondent No.2.

This application under Article 227 of the Constitution of India has been filed challenging the order dated 11.09.2023 passed by the learned Civil Judge, Junior Division, Sivasagar in Title Suit No.19/2020.

The petitioner Elisaba Chengi Purty applied for a next of kin certificate after the demise of her paternal uncle since the deceased did not have any legal heir. Accordingly, the Deputy Commissioner issued a certificate to the petitioner.

Thereafter the respondent Mikha Purty filed an application before the Deputy Commissioner, Sivasagar stating that he is the adopted son of the deceased and therefore, he is the legal heir of the said deceased person. The respondent prayed before the Deputy Commissioner that the next of kin certificate issued to the petitioner should be declared null and void. Accordingly, the Deputy Commissioner declared the said next of kin certificate as null and void.

Thereafter the petitioner filed a suit before the learned trial court praying for declaration that the order of the Deputy Commissioner allowing the prayer of the respondent is illegal and the next of kin certificate issued to her is still valid.

In that case, at the time of examination of the petitioner/ plaintiff, she filed an application before the trial court under Order VII Rule 14 (3) of the C.P.C praying to allow her to use those two documents in evidence. The trial court refused to allow the prayer of the petitioner.

I have considered the submissions made by the learned counsel for the petitioner.

This court is of the opinion that those two documents are the foundation of the entire suit. Therefore, the petitioner should be given an opportunity to use those two documents in her evidence.

This court is of the considered opinion that without those two documents the entire suit will become infructuous. Therefore, the impugned order dated 11.09.2023 is set aside. The petitioner shall be allowed to use those two documents in her evidence.

With the aforesaid, the Civil Revision Petition stands disposed of.

JUDGE

Comparing Assistant