

GAHC010285252023



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

Case No. : CRP(IO)/434/2023

KRISHNA BORTHAKUR AND 8 ORS.
S/O- LATE TARA NATH, R/O- VILL.- GELEKEY BRAHMIN GAON, P.O. AND
P.S. GELEKEY, DIST. SIVASAGAR, ASSAM

2: RAM BORTHAKUR
S/O- LATE TARA NATH
R/O- VILL.- GELEKEY BRAHMIN GAON
P.O. AND P.S. GELEKEY
DIST. SIVASAGAR
ASSAM

3: NABIN BORTHAKUR
S/O- LATE BHABA
R/O- VILL.- GELEKEY BRAHMIN GAON
P.O. AND P.S. GELEKEY
DIST. SIVASAGAR
ASSAM

4: TARUN BORTHAKUR
S/O- LATE BHABA
R/O- VILL.- GELEKEY BRAHMIN GAON
P.O. AND P.S. GELEKEY
DIST. SIVASAGAR
ASSAM

5: MAKHON BORTHAKUR
S/O- LATE SARBESWAR
R/O- VILL.- GELEKEY BRAHMIN GAON
P.O. AND P.S. GELEKEY
DIST. SIVASAGAR
ASSAM

6: PULIN BORTHAKUR
S/O- LATE SARBESWAR

R/O- VILL.- GELEKEY BRAHMIN GAON
P.O. AND P.S. GELEKEY
DIST. SIVASAGAR
ASSAM

7: PROBIN BORTHAKUR
S/O- LATE SARBESWAR
R/O- VILL.- GELEKEY BRAHMIN GAON
P.O. AND P.S. GELEKEY
DIST. SIVASAGAR
ASSAM

8: ROBIN BORTHAKUR
S/O- LATE SARBESWAR
R/O- VILL.- GELEKEY BRAHMIN GAON
P.O. AND P.S. GELEKEY
DIST. SIVASAGAR
ASSAM

9: BIREN BORTHAKUR
S/O- LATE SARBESWAR
R/O- VILL.- GELEKEY BRAHMIN GAON
P.O. AND P.S. GELEKEY
DIST. SIVASAGAR
ASSA

VERSUS

THE OIL AND NATURAL GAS CO. LTD AND 4 ORS
THE EXECUTIVE DIRECTOR, ASSAM ASSET, NAZIRA, DIST. SIVASAGAR,
ASSAM, PIN- 785697.

2:CHIEF MANAGER (P AND A) ADMINISTRATION

O.N.G.C

NAZIRA
DIST. SIVASAGAR
ASSAM
PIN- 785697.

3:THE LAND ACQUISITION IN CHARGE O.N.G.C.
ASSAM ASSET
SIVASAGAR
DIST. SIVASAGAR
ASSAM
PIN- 785697.

4:THE DEPUTY COMMISSIONER
SIVASAGAR
DIST. SIVASAGAR
ASSAM
PIN- 785640.

5:CIRCLE OFFICER
NAZIRA
DIST. SIVASAGAR
ASSAM
PIN- 785685

For the Petitioner(s) : Mr. T. J. Mahanta, Sr. Advocate
: Ms. P. Sarma, Advocate

For the Respondent(s) : Mr. B. K. Das, Advocate
: Mr. T. R. Gogoi, Government Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 24.04.2024

1. This is an application filed under Article 227 of the Constitution challenging the order dated 30.10.2023 passed in Misc. (J) Case No.48/2023 arising out of Title Suit No.26/2017.
2. Vide the said order dated 30.10.2023, the learned Trial Court i.e. the Court of the learned Civil Judge (Senior Division), Sivasagar had rejected the application filed by the petitioners seeking appointment of a commission as regards the actual possession of the suit land.
3. During the course of hearing, Mr. T. J. Mahanta, the learned Senior counsel appearing on behalf of the petitioners drew the attention of this Court to the written statement filed by the Circle Officer i.e. the Defendant No.5 wherein it

was categorically admitted in the paragraph No.4 of the written statement that the defendant No.1 was in a possession of 7 Bighas 0 Kathas 3 Lechas of land as per the measurement made on 21.02.2017 and that particular plot of land belonged to the plaintiffs as they were the patta holders.

4. The learned Senior counsel submitted that taking into account the categorical admission of the Revenue Authority, the said application under Order XXVI for appointment of a commission ought not to have been filed by the plaintiffs in the suit. Be that as it may, the learned Senior counsel submitted that the observations made in the said order dated 30.10.2023 should not prejudice the learned Trial Court while deciding the said suit.

5. This Court has duly heard Mr. B. K. Das, the learned counsel for the Respondent Nos. 1, 2 and 3.

6. This Court having perused the written statement filed by the Defendant No.5 who represents the revenue authority is of the opinion that the application so filed was totally unnecessary and the learned Trial Court was justified in rejecting the said application. Under such circumstances, this Court is not inclined to interfere with the order dated 30.10.2023 passed by the learned Trial Court.

7. It is further observed that the rejection of the application filed by the petitioners and the observations made in the impugned order should not prejudice the petitioners/plaintiffs during the adjudication of the trial.

8. This Court further takes note of that vide an order dated 04.01.2024, the proceedings of Title Suit No.26/2017 which was pending before the Court of the learned Civil Judge (Senior Division), Sibsagar was stayed. The said interim order dated 04.01.2024 is hereby vacated and as the parties are duly

represented before this Court, they are directed to appear before the learned Trial Court on 20.05.2024 for further proceedings of the suit.

9. With above observations and directions, the instant revision application stands disposed of.

JUDGE

Comparing Assistant