

GAHC010294412023



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

Case No. : WA/28/2024

M/S DIBRU DANGIRI RIVER PART-I MEEN SAMABAY SAMITY LTD.
REPRESENTED BY ITS PRESIDENT, SRI SUDHANGSHU DAS, VILLAGE-
DIGHALTARANG, P.O. DIGHALTARANG, P.S. BAGHJAN, DISTRICT-
TINSUKIA, ASSAM, PIN- 786170

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, FISHERY DEPARTMENT, DISPUR, GUWAHATI- 781006

2:THE REGISTER OF CO-OPERATIVE SOCIETY
ASSAM
KHANAPARA GUWAHATI
DISTRICT- KAMRUP (M)
GUWAHATI- 781022

3:THE DISTRICT COMMISSIONER
TINSUKIA
DISTRICT- TINSUKIA
ASSAM PIN- 786192

4:THE ADDITIONAL DISTRICT COMMISSIONER
TINSUKIA
I/C - SADIYA SUB-DIVISION
DISTRICT- TINSUKIA
ASSAM PIN- 786192

5:THE DISTRICT FISHERY DEVELOPMENT OFFICER
TINSUKIA
ASSAM
PIN- 78619

Advocate for the Petitioner : MR. U DUTTA

Advocate for the Respondent : GA, ASSAM

Linked Case : **WP(C)/6854/2023**

DIBRU DANGARI RIVER PART-I MEEN SAMABAY SAMITY LIMITED
POST OFFICE- DIGHALTARANG
DISTRICT- TINSUKIA
ASSAM
REPRESENTED BY ITS CHAIRMAN
SRI RANJIT DAS
AGED ABOUT- 54 YEARS
SON OF LATE KAMINI DAS
RESIDENT OF VILLAGE- DIGHALTARANG
POST OFFICE- DIGHALTARANG
POLICE STATION- BAGHJAN
DISTRICT- TINSUKIA
ASSAM
PIN- 786151

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI- 781006

2:THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI-22

3:THE DEPUTY COMMISSIONER
TINSUKIA

4:THE ADDITIONAL DISTRICT COMMISSIONER
SADIYA SUB-DIVISION
CHAPAKHOWA

5:THE DISTRICT FISHERIES DEVELOPMENT OFFICER
TINSUKIA

6:DIBRU SAIKHOWA MEEN SAMABAY SAMITY LIMITED
GUIJAN
POST OFFICE- RANGAGORAH
DISTRICT- TINSUKIA
REPRESENTED BY ITS SECRETARY

For the appellant/writ

Petitioner : Mr. B.C. Das, Senior Advocate
Assisted by Mr. U. Dutta, Advocate
for the appellant.
Mr. S. Banik, Advocate
for the writ petitioner

For the respondents : Mr. N. Das,
Govt. Advocate, Assam
Mr. V. Rajkhowa,
S.C., Cooperation Department
Mr. M.K. Hussain, Advocate
for the respondent No.6 in
the writ petition

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE SUMAN SHYAM

01-05-2024

(Vijay Bishnoi, C.J.)

This intra-Court writ appeal is filed by the appellant being aggrieved with the order dated 15.12.2023 passed by the learned Single Judge in WP(C) 7298/2023. The learned Single Judge has dismissed the said writ petition with a cost of Rs.25,000/- while observing that for the same cause of action, which is the subject matter of adjudication in WP(C) 7298/2023, the petitioner Samity has already filed WP(C) 6854/2023 and the same is pending consideration. However, without disclosing about the pendency of the earlier writ petition, fresh writ petition is filed by the Samity and, therefore, it is the abuse of the process of the Court. While observing this, the learned Single Judge has dismissed WP(C) 7298/2023 with a

cost of Rs.25,000/- with a direction to pay the same in the name of Gauhati High Court Bar Association Welfare Fund.

Mr. B.C. Das, learned senior counsel for the appellant submits that as a matter of fact, the appellant has preferred WP(C) 7298/2023 *bona fide* without knowing that the earlier writ petition, i.e. WP(C) 6854/2023 on the same subject matter was already filed in the name of the Samity and the same is pending consideration. It is contended that the appellant Samity has no intention to mislead the Court and the act of the Samity is *bona fide*. The learned senior counsel on instruction submits that the appellant now wants to withdraw the present appeal as well as WP(C) 7298/2023.

Learned counsel appearing for the respondents have opposed the request made by the learned senior counsel for the appellant.

Having heard the learned counsel appearing for the parties and after taking into consideration the submissions made by the learned senior counsel for the appellant, we allow the appellant to withdraw WP(C) 7298/2023 and the same is accordingly dismissed as withdrawn. The order dated 15.12.2023 passed by the learned Single Judge in WP(C) 7298/2023 is modified accordingly. Simultaneously WA 28/2024 is also dismissed as withdrawn.

The cost imposed by the learned Single Judge vide order dated 15.12.2023 is made easy.

List WP(C) 6854/2023 before the appropriate Court.

JUDGE

CHIEF JUSTICE

Comparing Assistant