GAHC010035402026

2026:GAU-AS:10443

THE GAUHATI HIGH COURT

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

WRIT PETITION [C] NO. 1137/2026

Alina Sohoria alias Alina Baruah Sohoria, aged about 55 years, W/o- Babul Sohoria; R/o- Vill. & P.O. Abhayapuri, District – Bongaigaon, Assam.

.....Petitioner

-**VERSUS**-

1. The State of Assam, Represented by the Commissioner and Secretary to the Government of Assam, Land and Revenue Department, Dispur, Guwahati – 781006.
2. The Director, Land and Revenue Department, Dispur, Guwahati-781006.
3. The District Commissioner, Bongaigaon, P.O. Bongaigaon, District – Bongaigaon, Assam.
4. Circle Officer, Srijangram Revenue Circle, Bongaigaon, Assam.

.....Respondents

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY

Advocates :

For the Petitioner : Mr. H. Das, Advocate

For the Respondent nos. 1 & 2 : Mr. J. Handique, Junior Government Advocate, Assam

Date of pronouncement of judgment : 23.07.2026

Whether the pronouncement is of the Operative part of the judgment ? : No

Whether the full judgment has been Pronounced ? : Yes

JUDGMENT & ORDER

Heard Mr. H. Das, learned counsel for the petitioner; Mr. J. Handique, learned Standing Counsel, Revenue & Disaster Management Department, Government of Assam for the respondent nos. 1 & 2; and Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent nos. 3 & 4.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has inter alia sought for a direction to the respondent authorities to issue a No Objection Certificate [NOC] for transferring a plot of land,

belonging to her, by way of sale to an intending purchaser and by allowing the application the petitioner has submitted on 29.08.2025 for notified public service, 'Composite land Sale Transfer'.

3. As per the projection made in this writ petition, the petitioner purchased a plot of land, measuring 2 Kathas 5 Lessas, covered by Dag no. 186/2182 & Patta no. 1216, situate at Village – Abhayapuri, District – Bongaigaon, Assam ['the subject-plot', for short] from one Bireswar Seal by way of a Registered Sale Deed dated 17.09.1998. For the purpose of the said sale/purchase transaction, Bireswar Seal obtained sale permission from the office of the Sub-Divisional Officer, Abhayapuri on 14.09.1998. After registration of the Sale Deed, the seller, Bireswar Seal handed over the possession of the subject-plot to the petitioner with proper demarcation of boundaries and since then, the petitioner is in continuous occupation of the subject-plot. The said subject-plot stood mutated in favour of the petitioner by a Mutation Order dated 15.10.1998 passed in Mutation Case no. 226/1997-1998. The petitioner has stated that in the Jamabandi [Records of Rights] of Village – Abhayapuri Town, the name of the petitioner was duly recorded for the subject-plot on 06.10.1998.

3.1. Pursuant to an Office Letter dated 16.07.1999 of the Commissioner & Secretary to the Government of Assam, Revenue & Disaster Management Department addressed to the Settlement Officer, Goalpara & Bongaigaon, District – Goalpara on the subject-matter, 'Correction of Land Records' containing a direction to correct the land records of a number of parcels of land to Khas status, the status of those parcels of land including the status of the subject-plot, was

changed to Government Khas land. When the matter of conversion of the status of the subject-plot to Government Khas land in the revenue records came to the knowledge of the petitioner, the petitioner preferred a review petition, Review Petition no. 179/2019, in a writ petition, W.P.[C] 2393/2015, wherein a Judgment was rendered on 29.03.2017. By an Order dated 22.01.2020 passed in Review Petition no. 179/2019, the writ petition, W.P.[C] no. 2393/2015 was restored to file. The writ petition was preferred by the two other purchasers who purchased plots of land from Sri Bireswar Seal and whose plots of land were also converted to Governemtn Khas land, pursuant to the Government Letter dated 14.09.1998. After restoration of the writ petition, W.P.[C] no. 2393/2015 to file, the same was disposed of by an Order dated 19.02.2020 with a number of directions. After disposal of the writ petition by Order dated 19.02.2020, the Circle Officer, Srijangram Revenue Circle, Abhayapuri registered a case, Misc. Case no. 56/2023 [Alina Sohoria vs. Bireswar Seal] for the purpose of considering the case of the petitioner to examine regarding the status of the subject-plot. When the proceedings of Misc. Case no. 56/2023 was not brought to any logical conclusion, the petitioner preferred a writ petition, W.P.[C] no. 6717/2023. This Court after considering the facts and circumstances in its entirety and a Judgment and Order dated 09.02.2022 rendered in a writ petition, W.P.[C] no. 4594/2020, disposed of the writ petition, W.P.[C] no. 6717/2023 holding that the case of the petitioner is similarly situated to the case of the two petitioners in W.P.[C] no. 4594/2020. Consequently, a further direction was made to the District Commissioner, Bongaigaon for consideration of the case of mutation in the petitioner's name in respect of the subject-plot on the basis of the Sale Deed executed on 17.09.1998.

3.2. Pursuant to the Judgment and Order dated 01.02.2024 passed in the writ petition, W.P.[C] no. 6717/2023, the name of the petitioner stood restored and mutated in respect of the subject-plot by an Order dated 30.03.2024 and in support of such fact, the petitioner has annexed a copy of the Jamabandi [Records of Rights] pertaining to the subject-plot as Annexure-2 to the writ petition.

4. After restoration of the petitioner's name in the revenue records by the above Mutation Order, the petitioner, as she was in need of fund, intended to sell the subject-plot to an intending purchaser, Bijit Das. As it is a statutory mandate under the Registration Act, 1908, as amended, to obtain a No Objection Certificate [NOC] from the jurisdictional District Commissioner [earlier, the Deputy Commissioner], the petitioner to facilitate execution of the sale deed for the subject-plot applied for the NOC on 19.09.2024 online in the officially designated portal, Sewa Setu for the notified public service, 'Composite Land Sale Transfer'. The said application was processed by the Designated Public Servant, that is, the Circle Officer, Srijangram Revenue Circle, Abhayapuri, Bongaigaon, Assam [the respondent no. 4] and by an Order dated 17.11.2024, the respondent no. 4 rejected the said application on the ground that the petitioner did not submit up-to-date land revenue receipt with the application.

5. Subsequent to rejection of the application on 17.11.2024, the petitioner again submit an application on 29.08.2025 seeking extension of the notified public service, 'Composite Land Sale Transfer' by meeting the deficiencies recorded in the previous Rejection Order dated 17.11.2024. The receipt

of the said application was acknowledged vide Reference no. NOC/13/50502/2025.

6. When after submission of the application on 29.08.2025, the notified public service was not extended the petitioner within the stipulated delivery date, the petitioner tracked the status of the application in the designated portal, Sewa Setu and found out that the respondent no. 4 had sent back the application to the Land Record Assistant [LRA] for a fresh report on 05.01.2026. Aggrieved by non-delivery of the notified public service, 'Composite Land Sale Transfer' within the statutorily prescribed delivery date, the petitioner has approached this Court by the present writ petition seeking the reliefs, mentioned above.

7. An affidavit-in-opposition has been filed by the respondent no. 4 on 12.06.2026 dilating on the processing of the application of the petitioner dated 29.08.2025. In the affidavit, the respondent no. 4 has stated that after receipt of the application, the matter of granting NOC in respect of the subject-plot was examined and recording his views, the matter was reported from his end to the Additional Deputy Commissioner [R], Bongaigaon by an Office Letter dated 13.10.2025. The respondent no. 4 has stated that presently, the application for issuance of NOC in favour of the petitioner is pending at the level of the Land Record Assistant [LRA].

8. Mr. Das, learned counsel appearing for the petitioner has submitted that since the service, 'Composite Land Sale Transfer' is a notified public service under the Assam Right to Public Services Act and in view of Section 21A of the Registration Act, 1908, as amended, it is incumbent on the part of the respondent authorities either to allow the

application for the NOC for sale or to dispose of the application by way of a reasoned order within the prescribed delivery period. It is not open for the respondent authorities to keep the application pending for such prolonged period. He has submitted that the petitioner in the application dated 29.08.2025 had met all the deficiencies, recorded earlier in the Rejection Order dated 17.11.2024 whereby the previous application dated 19.09.2024 was rejected. He has pointed out that as per the Jamabandi [Records of Rights], the class of the subject-plot is Residential – III [Annexure-1], contrary to the claim made by the respondent no. 4 that the class of land is 'wetland' in his Report dated 13.10.2025. Mr. Das has further submitted that the intended transfer is not inter-religious transfer and therefore, the Standard Operating Procedure [SOP], notified by the Revenue and Disaster Management Department, Government of Assam by a Notification dated 09.09.2025 will not be applicable in the present case. Therefore, the delay is not justified and in violation of the provisions of the Assam Right to Public Services [ARTPS] Act, 2012, as amended.

9. In response, Mr. Goswami has referred to the Report dated 13.10.2025 to submit that the reasons are assigned therein as regards non-disposal of the application submitted by the petitioner for NOC for sale are proper and the delay occurred in processing the application cannot be termed as not justified.

10. From the contents of the Report submitted by the respondent no. 4 on 13.10.2025 to the Additional District Commissioner [R], Bongaigaon, it is noticed that the concerned Land Record Assistant [LRA] submitted a Field

Report on 13.10.2025 to the respondent no. 4 stating that the subject-plot was under occupation of the petitioner and the same was then seen as 'wetland'. The respondent no. 4 in its Report dated 13.10.2025 had also reported the Zonal Value Rate to issue NOC for the subject-plot could not be found.

11. The Registration Act, 1908 came to be amended by the Registration [Assam Amendment] Act, 2009 with the insertion of Section 21A and again by the Registration [Assam Amendment] Act, 2021. After those amendments, Section 21A of the Registration Act, 2009 reads as under :-

> **21A. No registration of non-testamentary instruments with no objection certificate**.
>
> Notwithstanding anything contained in any other provision of this Act, no non testamentary instrument relating to immovable property. except for house, flat, residential apartment, commercial building or any construction or structure erected on a plot of land, shall be accepted for registration, unless the Deputy Commissioner of the concerned district issues a No Objection Certificate containing the description of such immovable property to be transferred and also such other No objection Certificates, which are required to be issued by the Deputy Commissioner or any other Authority under any law for the time being in force or under any Executive Instruction, Order etc. issued by the State Government from time to time;
>
> Provided that all such No Objection Certificates shall be issued within a period of thirty days from the date of

> the receipt of application and in case No Objection Certificate is not issued within the stipulated period of thirty days, a speaking order with reasons thereof shall be issued to the applicant within the said stipulated period.

12. It is a statutory mandate under Section 21A of the Registration Act for the jurisdictional Deputy Commissioner to either issue a No Objection Certificate containing the description of the immovable property to be transferred or to pass a speaking order with reasons thereof within a period of thirty days from the date of receipt of the application in case NOC is not issued within the prescribed period of thirty days.

13. The Revenue & Disaster Management Department, Government of Assam has framed a Standard Operating Procedure [SOP] and the SOP has been notified vide a Notification dated 09.09.2025. The relevant excerpts from the Notification are quoted hereinunder :-

> Now therefore, the Governor of Assam is pleased to notify the following SOP for grant of No Objection Certificate [NOC] by the District Commissioner for Registration of Transfer of Land [Land Sale, Lease Gift etc.] under Section 21A of Registration Act, 1908 in cases where the buyers and sellers belong to different religious communities, as outlined below :-
>
> 1. An application for grant of NOC for Transfer of land shall be made by the applicant through SEWA SETU portal, to the office of the District Commissioner under whose jurisdiction the land is situated, with details on the reasons for sale and the value of transaction.

2. District Commissioner shall collect a report from the concerned Circle Officer on the veracity of the details submitted by the applicant.

3. District Commissioner, upon receipt of the report from Circle Officer shall forward the application to the Nodal Officer, Inter Religion Land Sale permission, Revenue & D.M. Department for examination of the comprehensive report.

4. The Nodal Officer, Inter Religion Land Sale permission, Revenue & D.M. Department will further seek a report from Special Branch [SB], Assam Police HQ, on the following points.

a. Whether such transfer of land could be under undue threat, coercion or fraudulent means.

b. Whether such transfer of land has the propensity to disturb peace and communal harmony in the area of proposed Land Transfer.

c. Whether such land transfer could pose a threat to national security.

d. Character & Antecedent report of buyer and seller.

5. Upon receipt of the report from Special Branch, the Nodal Officer, Inter Religion Land Sale permission, Revenue & D.M. Department shall forward the same to the District Commissioner concerned.

6. Subsequent to the receipt of the report of the Special Branch from the Nodal Officer, Inter Religion Land Sale permission, Revenue & D.M. Department, District Commissioner will take a decision to either

call for further queries from the applicants, reject the proposal or issue NOC for such Land Transfer.

7. In the event that an application is not disposed within 30 days from the date of application, the District Commissioner will issue speaking order with reasons thereof to the applicant within the said stipulated period as per the provisions of Section 21A.

14. Both under Section 21A of the Registration Act, as amended, as well as in the SOP formulated by the State Government, by the Notification dated 09.09.2025, time period of thirty days from the date of application for processing of the application for issuance of the No Objection Certificate [NOC] has been prescribed.

15. The Assam Right to Public Services [ARPTS] Act, 2012 has been enacted by the Assam Legislative Assembly in order to provide for delivery of notified public services to the people of the State of Assam within the stipulated time limit and for matters connected therewith and incidental thereto. As per Section 2[h], 'Right to Public Service' means right to obtain the notified service under the ARTPS Act from time to time within the stipulated time limit as prescribed under Section 5. Section 5 of the ARTPS Act has laid down that every eligible person shall have the right to obtain the services in accordance with the ARTPS Act within the time bound period as notified under Section 4. It is the responsibility of the Designated Government Servant to deliver services, under Section 6 of the ARTPS Act, within the stipulated period. The stipulated time limit, as per Section 7[1], starts from the date when the application for obtaining a required notified service is submitted to the Designated Public Servant or to a person

subordinate to him authorized to receive the application. As per Section 7[2], the Designated Public Servant on receipt of an application under sub-section [1] shall, within the stipulated time limit, provide the notified service or reject the application and in case of rejection of application, he shall record the reasons in writing and communicate to the person making the application, [i] the reasons for such rejection; [ii] the period within which an appeal against such rejection may be preferred; and [iii] the particulars of the Appellate Authority. An Order passed under Section 7[2] of the appealable order under Section 8 before the Appellate Authority notified.

16. Section 4 of the ARTPS Act has provided that the State Government may, from time to time, notify the services, Designated Public Servants, Appellate Authorities, Reviewing Authorities, User Charge, Stipulated Time Limits, and the area of the State to which the Act shall apply.

17. The Notification dated 11.11.2022 is on the subject : 'Declaration of Service under Revenue & DM Department as per provision of the Assam Right to Public Services Act, 2012 in all Districts [except sixth scheduled Districts] of Assam'. The notification has been issued with a view to provide delivery of the following notified public service to eligible citizens within the stipulated time limit :-

Subject : Declaration of Service under Revenue & DM Department as per provision of the Assam Right to Public Services Act, 2012 in all Districts [except sixth scheduled Districts] of Assam.

With a view to provide the delivery to Public Service to eligible citizens within stipulated time limit, Revenue & DM Department in continuation of earlier Notification No. RSS.203/2022/1 dated 6th May 2022 has notified the below service under the Assam Right to Public Services Act, 2012.

Service Name : Composite Land Service Transfer

An important service provided by the Deputy Commissioner regarding Land Sale permission is 'NoC for Transfer of Immovable Property' under section 21[A] of the Indian Registration Act, 1908. However once NoC is issued by the Olo the Deputy Commissioner, applicant has to apply for Registration of the Scheduled land in Sub Registrar Office following separate applications for Mutation, Partition, Jamabandi etc. in the concerned Circle Office.

'Composite Land Sale Transfer intends for issuing No Objection Certificate for the Transfer of Immovable property at O/o Deputy Commissioner followed by Registration of Property at the Sub Registrar Office followed by auto mutation and auto Composite Land Sale Transfer
Service with 'Auto Mutation' or 'Auto Mutation along with Partition' at the time of submitting the Application form.

Eligibility criteria :

Anyone in whose name figures in Jamabandi/Record of Rights or his/her legal heir/successor or his/her

registered power of attorney holder is eligible to avail the service online.

Designated Public Servant [DPS] :

Deputy Commissioner/to the nominated by Deputy Commissioner.

18. The Notification has further provided for procedural steps to be followed by the authorities involved in providing the notified public services. As per the Citizen Charter annexed to the Notification as Annexure-I, for the notified public service, 'Composite Land Sale Transfer', the District Commissioner [earlier, Deputy Commissioner] or the authority to be nominated by the District Commissioner [earlier, Deputy Commissioner] is the Designated Public Servant and the stipulated time limit for providing the service is mentioned as forty-five days.

19. A speaking order is one which expressly states the reasons for the decision. In other words, a speaking order speaks for itself by assigning the reasons behind the conclusion. It is implicit in the principles of natural justice and fair play that an authority which has been vested with the power to decide the matter should record reasons as it is part of fair procedure, more particularly, when the decision is likely to affect the person concerned. In the case in hand, the right of the applicant is also traceable to Article 300A of the Constitution. Though the right provided in Article 300A is not fundamental right, but it is still a constitutional and human right.

20. As per the eligible criteria mentioned in the Notification dated 11.11.2022, anyone whose name figures in Jamabandi

[Records of Rights] or his/her legal heirs/successors or his/her registered power of attorney holder is eligible to avail the service, 'Composite Land Sale Transfer'. The Notification dated 11.11.2022 has mentioned that the Designated Public Servant, 'Deputy Commissioner/to be nominated by Deputy Commissioner'. The documents required to be submitted with the application are also listed in the Notification.

21. From the Jamabandi [Records of Rights], annexed to the writ petition as Annexure-1, it transpires that the name of the petitioner is duly reflected therein in respect of the subject-plot. The petitioner has asserted that the application dated 29.08.2025 was submitted along with all the requisite documents. The Report submitted by the respondent no. 4 to the Additional District Commissioner [R], Bongaigaon appears to be a report, interim in nature, recording his views, on the application seeking the notified public service, 'Composite Land Sale Transfer' for consideration of the Additional District Commissioner [R], Bongaigaon. From the Report dated 13.10.2025, it clearly emerges that the application received vide Acknowledgment no. NOC/13/50502/2025 dated 29.08.2025 has not reached any finality. While acknowledging the fact that the subject-plot was under possession of the petitioner, it was reported that the subject-plot was within since as 'wetland'. Whether the subject-plot, which is classified as Residential – III class, in the Jamabandi, can be transferred by way of sale or not, merely because it was then seen as 'wetland' by the concerned Land Record Assistant, is an issue which yet to be examined by the competent authority. This Court is also of the considered view that merely because zonal value rate was not found for the subject-plot at the relevant time an application seeking NOC for transfer of the subject-plot by

way of sale cannot be kept pending for any indefinite period, as such right of the petitioner is relatable to Article 300A of the Constitution of India.

22. Having regard to the contents of the Notification dated 09.09.2025, it prima facie appears that the procedure laid down in the Notification is not applicable in the case in hand.

23. As the respondent authorities have not brought the processing of the application dated 29.08.2025 to a finality till date, despite elapse of more than ten months since 29.08.2025, this writ petition is disposed of directing the jurisdictional District Commissioner, Bongaigaon [the respondent no. 3] to bring the entire process to finality in strict compliance of the statutory prescriptions contained in Section 21 of the Registration Act, as amended, and by adhering to the procedure outlined in the Notification dated 11.11.2022 within a period of thirty days from the date of submission of a copy of this order at his office by the petitioner. If in the processing of the application, any further document is found necessary from the petitioner, then the respondent no. 3 shall inform the petitioner in writing as regards the deficiency, if any, in her application within a period of fifteen days from the date of submission of the copy at his office. In such situation, the time period of thirty days for finalisation is to be calculated from the date of meeting the deficiency by the petitioner.

24. With the observations made and the directions given above, the writ petition is disposed of. There shall, however, be no order as to cost.

Ananta Konwar

Digitally signed by Ananta Konwar
DN: c=IN, o=Personal, postalCode=782103, l=Nagaon, st=Assam, street=00 Kahiguri, Gandhibari, Raha Assam India 782103 Near Namghar, title=8844, 2.5.4.20=b5a05e1af058b36f4059a90ed7cffd5bb96f7ecd72ef4648d7f09f1773320e01, serialNumber=d2d87646b496abfcb916daa92f0cc8a8476a70693ea30fe4d16a2fc5fbaca1e3, email=anantakonwar88@gmail.com, cn=Ananta Konwar
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JUDGE

Comparing Assistant