GAHC010172822016

2026:GAU-AS:10459

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

Case No. : WP(C)/4812/2016

MD. HABIBUR RAHMAN
S/O LT. HAZI ABDUL ZABBAR, R/O BANGALIPARA, P.O. CHITUWAI KHAITI, P.S. LAHORIGHAT, DIST- MORIGAON, ASSAM

VERSUS

ON THE DEATH OF SAMAR ALI HIS LEGAL HEIRS
1A AMENA KHATUN WIFE AND ORS. 1B MUZAKKIR HUSSAIN SON 1C. IKRAMUL CHOUDHURYSON 1D MERINA BEGUM DAUGHTER RESP. NO 1A TO 1D ARE VILL. DUTALABARI, P.O. CHITUWARI KHAITI, P.S. LAHORIGHAT, DIST- MORIGAON, ASSAM, PIN-782105

2:THE DY. COMMISSIONER
MORIGAON
DIST- MORIGAON
ASSA

For the Petitioner(s) : Mr. M.K. Choudhury, Advocate

For the Respondent(s) : Mr. H. Sarma, Addl. Sr. Govt. Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 29.07.2026

Heard Mr. M.K. Choudhury, the learned counsel appearing on

behalf of the petitioner. Mr. H. Sarma, the learned Additional Senior Government Advocate appears on behalf of the respondent No. 2.

2. None appears on behalf of the respondent Nos. 1(a) to 1(d) on call.

3. This Court duly takes note of that initially the respondent No. 1 was arrayed as a party to the instant proceedings. However, subsequently, on account of the death of the respondent No. 1, the respondent Nos. 1(a) to 1(d), who represent the estate of the deceased respondent No. 1, were substituted.

4. This Court also takes note of the office notes, which show that service has been duly affected upon the respondent Nos. 1(a), 1(c), and 1(d), and therefore, the estate of the deceased respondent No. 1 is adequately represented.

5. In the backdrop of the above, this Court duly takes note of the impugned order dated 09.05.2016. From a perusal of the impugned order, it is seen that an order dated 20.06.1967 passed by the Deputy Commissioner, Nagaon vide Memo No. 10213-146, was challenged by filing an application under Section 151 of the Assam Land and Revenue Regulation, 1886.

6. The ground on which such an application was filed was that

the predecessors of the present respondent Nos. 1(a) to 1(d) were never informed prior to passing the order of annulment of the patta.

7. This Court would not like to deal with the said aspect in view of the order which this Court proposes to pass.

8. This Court also finds it pertinent to take note of that the application was filed by the predecessor of the respondent Nos. 1(a) to 1(d) on 18.04.2016. Thereafter, on 09.05.2016, i.e., the date on which the impugned order was passed, the learned Member of the Assam Board of Revenue, on one hand admitted the application, as would be apparent from the first paragraph of the order dated 09.05.2016. Surprisingly, on the same date without issuing any notice to the respondent No. 2 therein, i.e., the petitioner herein allowed the application and disposed of the said proceedings.

9. A perusal of the said order dated 09.05.2016, in the opinion of this Court, is not only in violation of the principles of natural justice but also violates the mandate of the Assam Board of Revenue Regulations, 1963, more particularly Regulation 13 therein.

10. Considering the above, this Court, therefore, sets aside the order dated 09.05.2016 passed in Case No. 48 RA (Mori)/2016

and remands the matter back to the learned Assam Board of Revenue for deciding afresh.

11. Taking into account that this Court has remanded the matter back to the learned Assam Board of Revenue, this Court observes that until disposal of the said proceedings registered as Case No. 48 RA (Mori)/2016, all rights created on the basis of the annulment order dated 20.06.1967 passed by the Deputy Commissioner, Nagaon, vide Memo No. 10213-146, shall be subject to the outcome of Case No. 48 RA (Mori)/2016.

12. The Registry shall send a copy of this order to the learned Assam Board of Revenue.

JUDGE

Comparing Assistant