GAHC010089752023

2026:GAU-AS:14771

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

Case No. : WP(C)/2335/2023

NIGAR SULTANA
D/O LATE AFSAR ALI, W/O HAFIZUR HAQUE, VILL-RANGIA TOWN, N.T. ROAD, WARD NO. 5, MOUZA-PANDURI, P.O.-RANGIA, DIST-KAMRUP, ASSAM, PIN-781354

VERSUS

THE STATE OF ASSAM AND 14 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT, DISPUR, GUWAHATI-781006, ASSAM

2:DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT
REPRESENTED BY ITS COMMISSIONER AND SECRETARY
DISPUR
GUWAHATI-781006
ASSAM

3:THE ADDITIONAL DEPUTY COMMISSIONER
KAMRUP
AMINGAON
ASSAM

4:THE CIRCLE OFFICER
RANGIA REVENUE CIRCLE
DIST-KAMRUP
ASSAM

5:ATAUR RAHMAN
S/O LATE ABDUR RAHMAN
R/O RANGIA TOWN
WARD NO. 3/4

MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-781354

6.1:ON THE DEATH OF SYEDUR RAHMAN
HIS LEGAL HEIRS NAMELY
SHAMIMA RAHMAN
D/O-LATE SYEDUR RAHMAN
R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-781354

6.2:SALMA RAHMAN KHAN
D/O- LATE SYEDUR RAHMAN

R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-781354

6.3:NAJMA RAHMAN
D/O- LATE SYEDUR RAHMAN

R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-781354

6.4:SWARIF MAHAMMAD
S/O-LATE SYEDUR RAHMAN

R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP

ASSAM
PIN-781354

7:JEHRUL HAQUE
S/O LATE GIYASUDDIN AHMED
R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-781354

8:MINA RAHMAN
W/O LATE FAIZUR RAHMAN
R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-781354

9:NASSARAL RAHMAN
D/O LATE FAIZUR RAHMAN
R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-781354

10:JESMIN RAHMAN
D/O LATE FAIZUR RAHMAN
R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-781354

11:BENJIR RAHMAN
D/O LATE FAIZUR RAHMAN
R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI

P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-781354

12:FARIDA RAHMAN
D/O LATE FAIZUR RAHMAN
R/O RANGIA TOWN
WARD NO. 3/4
MOUZA PANDURI
P.O.-RANGIA
DIST- KAMRUP
ASSAM
PIN-78135

Advocate for the Petitioner : MR P K KALITA, MR S DAS,MR. K R BOROOAH,MR G J SAIKIA

Advocate for the Respondent : SC, REVENUE, MR. SHAKEEL RAHMAN(R6.1TO6.4),MR G Z AHMED(R6.1TO6.4),MR S A REEYAZ (R-7),MR G Z AHMED(R-7),MR S A REEYAZ (R-5,6),MR G Z AHMED(R-5,6),MR. P GOSWAMI,MR H K SARMA,GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

05.10.2026

1. Heard Mr. P. K. Kalita, learned Senior Counsel, assisted by Mr. G. J. Saikia, learned counsel for the petitioner. Also heard Mr. P. Goswami, learned counsel for the respondent Nos. 8, 9, 10, 11 and 12; Mr. G. Z. Ahmed, learned counsel for the respondent Nos. 5, 6.1, 6.2, 6.3, 6.4 and 7; Ms. G. Hazarika, learned counsel for the respondent Nos. 1 and 2; and Mr. H. K. Hazarika, learned counsel for the respondent Nos. 3 and 4.

2. The present writ petition has been preferred assailing the order dated 08.09.2022 passed by the Assam Board of Revenue in Revenue Appeal No. 57RA(K)/2019, whereby the Board set aside the order dated 10.09.2019

passed by the learned Additional Deputy Commissioner, Kamrup in Revenue Appeal No. 13/2016-2017 and restored the order dated 20.08.2013 passed by the Circle Officer, Rangia in Mutation Case No. 204/2012-2013.

3. The dispute relates to a plot of land measuring 19 Lechas covered by Dag No. 886, KP Patta No. 122 situated at Rangia Town, Mouza-Pandhuri, District, Kamrup.

4. The petitioner Nigar Sultana claims the land through her grandfather, late Jamin Sheikh, asserting that the land was his self-acquired property and that after his death, the same devolved upon his son, Apsar Ali, and thereafter upon the petitioner.

5. On the other hand, the private respondents, being the sons of late Gyasuddin Ahmed, claimed mutation in respect of the aforesaid land based on common family lineage, mutual family settlement, and possession under such settlement. The Circle Officer, Rangia, considered their claim in Mutation Case No. 204/2012-2013. By order dated 20.08.2013, mutation was allowed in their favor essentially on the basis of possession and a registered mutual/family settlement deed dated 29.04.1993.

6. It appears from the record that even the petitioner, at the stage of mutation proceedings, had acknowledged the applicants/respondents' possession of the land.

7. Be that as it may, the petitioner thereafter preferred Revenue Appeal No. 13/2016-2017 before the Additional Deputy Commissioner, Kamrup, assailing the Circle Officer's order granting Mutation. The learned Additional Deputy Commissioner, by order dated 10.09.2019, interfered with the mutation order and directed restoration of the petitioner's name in the revenue record.

8. The private respondents thereafter approached the Assam Board of Revenue. The Board, upon consideration of the materials placed before it, including the registered family settlement deeds dated 29.04.1993, possession and recitals contained in the said deeds regarding the relationship between the parties and the land in question, set aside the order of the Learned Additional Deputy Commissioner and restored the order of mutation passed by the Circle Officer.

9. Mr. Kalita, Learned Senior Counsel for the petitioner, has sought to assail the findings recorded by the learned Board, particularly its reliance upon the registered family settlement deeds and its conclusion regarding possession and succession.

It is submitted that the property was self-acquired property of late Zamin Sheik and, therefore, the private respondents could not have acquired any right, title, or interest therein merely on the basis of the aforesaid deeds. It is further argued that the Circle Officer and the Board of Revenue have exceeded their jurisdiction by entertaining questions relating to title.

10. On the other hand, Mr. Goswami, learned Counsel appearing for the private respondents, submits that the registered family settlement deeds dated 29.04.1993 were executed between the parties/predecessor in interest; that the recital therein recognized the common family lineage and the possession of the respondents' predecessor and that the petitioner herself had consented to mutation in their favor. It is accordingly submitted that the order passed by the Board calls for no interference.

11. Having considered the rival submissions and materials placed on record, this Court is of the view that the petitioner's projection essentially questions the respondents' title and entitlement to the land in question and also involves

clouding of their title for the action of the respondents. The projection further raises the question as to whether the land was self-acquired property of late Zamin Sheikh or was ancestral/family property settled mutually. The argument further raises a question about the legal character of the registered family settlement deeds dated 29.04.1993 and the resultant right flowing therefrom.

12. In the opinion of this Court, the questions raised cannot be appropriately adjudicated finally in the exercise of writ jurisdiction in the present proceedings, nor can the Board of Revenue decide such issues. Therefore, in the facts and circumstances of this case, this Court does not find sufficient ground to interfere with the impugned order dated 08.09.2022 passed by the Assam Board of Revenue.

13. The Board of Revenue could not have decided the validity of the family settlement deeds dated 29.04.1993, or any question relating to the claim and counterclaim of inheritance and self-acquisition of right, title and interest. Therefore, the Board has rightly considered the materials available before it and has restored the mutation on the basis of the possession and registered documents relied upon by the private respondents.

Whether those documents ultimately confer any right, title or interest upon the private respondents, and whether the petitioner has an exclusive or superior title to the land in question, are questions that must be determined by a competent Civil Court if raised by the petitioner.

14. Accordingly, this writ petition stands disposed of without interfering with the impugned order dated 08.09.2022 passed by the Assam Board of Revenue in Revenue Appeal No. 57RA(K)/2019.

15. It is, however, made clear that the said order, as well as the consequential mutation, shall always be subject to the final determination that may be made

by a competent Civil Court relating to the right, title, interest, succession, validity, and effect of the registered family settlement deeds dated 29.04.1993, if raised.

16. If the petitioner has any subsisting claim with respect to the land in question, it shall be open to the petitioner to avail the remedy before the competent Civil Court or the remedy permissible under law. If any such proceeding is instituted, it shall be decided independently on the basis of the objection/written statement filed, and the evidence and materials brought before the Civil Court, without being influenced by the observations made by the revenue authorities or by this court.

It is further clarified that this court has expressed no opinion on the ultimate question of title or entitlement of either party to the property, or on the question of limitation to file such suit.

17. The writ petition stands disposed of. Parties to bear their own cost.

18. Registry to return back the records of Revenue Appeal No. 57RA(K)/2019 to the Assam Board of Revenue.

JUDGE

Comparing Assistant