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2026:GAU-AS:3617

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

Case No. : WP(C)/6924/2024

NAZRUL ISLAM
S/O LATE MOHAMMAD ALI,
RESIDENT OF HOUSE NO. 18, GANDHIBASTI TINIALI, PS CHANDMARI, GUWAHATI, DIST KAMRUP M ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, DEPARTMENT OF HOUSING AND URBAN AFFAIRS, A BLOCK, GROUND FLOOR, JANATA BHAWAN, DISPUR GUWAHATI 781006

2:GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GUWAHATI 05
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER

3:CHIEF EXECUTIVE OFFICER

GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GUWAHATI 05

4:GUWAHATI MUNICIPAL CORPORATION GUWAHATI
UZAN BAZAR
GUWAHATI
REPRESENTED BY ITS COMMISSIONER

5:THE COMMISSIONER

GUWAHATI MUNICIPAL CORPORATION GUWAHATI UZAN BAZAR
GUWAHATI 781001

6:ASSOCIATE PLANNER
GUWAHATI MUNICIPAL CORPORATION GUWAHATI
PLANNING BRANCH
UZAN BAZAR
GUWAHATI 781001

7:MEMBER

MAYOR IN COUNCIL (APPEAL)
GUWAHATI MUNICIPAL CORPORATION GUWAHATI UZAN BAZAR
GUWAHATI 781001

8:MRS. MARJINA AHMED

W/O LATE GULAM BADRUL MOBIN AHMED

RESIDENT OF HOUSE NO. 18A
GANDHI BASTI TINIALI
PS CHANDMARI
GUWAHATI
DIST KAMRUP M ASSAM 78100

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. S. Sarma, Advocate

For the Respondent(s) : Mr. P. Nayak, Addl. A.G.
Mr. R. De, Advocate

Date on which judgment was reserved : **NA**

Date of pronouncement of judgment : **11.03.2026**

Whether the pronouncement is of the
Operative part of the judgment? : **NA**

Whether the full judgment has been
pronounced? : **Yes**

JUDGMENT AND ORDER (ORAL)

Heard Mr. S. Sarma, the learned counsel appearing on behalf of the petitioner. Mr. P. Nayak, the learned Additional Advocate General appears on behalf of the respondent Nos. 1 to 7 and Mr. R. De, the learned counsel appears on behalf of the respondent No. 8.

2. The present writ petition has been filed by the petitioner challenging the order dated 05.08.2024 passed by the respondent No. 7; the order dated 19.11.2024 passed by the respondent No. 3 as well as the order dated 07.12.2024 passed by the respondent No. 5.

3. The materials on record show that the petitioner's mother Late Mahmuda Begum was the owner of a plot of land admeasuring 3.90 Are covered by Patta No. 1 Dag No. 1110 of Village South Sarania. It is the case of the petitioner that the petitioner's mother sold a plot of land admeasuring 11 Lechas out of 1 Katha 9 Lechas in favour of the respondent No. 8 and the same was mutated in her name on 23.07.2007. The remaining land, which admeasures 18 Lechas remained with the mother of the petitioner.

4. In the year 2007, the mother of the petitioner along with the respondent No. 8 jointly applied for permission for construction of an RCC G+2 building over the plot of land purchased by the respondent

No. 8 and also the portion of the remaining land held by the mother of the petitioner and obtained the No Objection Certificate for construction from the Guwahati Metropolitan Development Authority. On 04.07.2007, permission was granted by the Chief Executive Officer, Guwahati Metropolitan Development Authority for construction over the land Covered by Dag No. 1110 of Patta No. 1. As per the said No Objection Certificate, the permission was granted for construction of ground floor, first floor, and second floor. On 17.06.2018, the mother of the petitioner expired, leaving behind 2 (two) sons, i.e., the petitioner and one Sri Nurul Ahmed and 2 (two) daughters namely Jerzina Begum and Marjina Ahmed (respondent No. 8).

5. It is the case of the petitioner that after the death of the mother, all the sons and daughters had mutually agreed and made an oral partition of 18 Lechas of land covered by Dag No. 1110 of Patta No. 1 and the structures standing thereon left by their mother. As per the said oral partition, 18 Lechas of land left behind by the mother of the petitioner was divided amongst heirs applying the Mohammedan law of inheritance, in presence of some well-wishers. The petitioner claims that his and his brother's shares being the sons were 6 Lechas each and the respondent No. 8 and Jerzina Begum got 3 Lechas each. This oral partition as claimed by the petitioner was done on 05.08.2018.

6. It is the further case of the petitioner that a suit was filed by the

respondent No. 8 suppressing the said oral partition, which was registered and numbered as Title Suit No. 258/2021 (old), later on renumbered as Title Suit No. 297/2022. Along with the said suit, an injunction application was also filed. However, no injunction was granted. The petitioner, who was the defendant No. 1 in the said suit, had filed a written statement-cum-counter-claim in the said suit for declaration of his right, title and interest over 15 Lechas of land out of the 18 Lechas as well as for confirmation of possession and permanent injunction. The said suit filed by the respondent No. 8 being Title Suit No. 297/2022 (New) was withdrawn by the respondent No. 8 and the counter-claim, however, was continued with by the petitioner till the filing of the instant writ petition.

7. At this stage, it may not be out of place to mention that Mr. S. Sarma, the learned counsel appearing on behalf of the petitioner submitted that the said counter-claim was subsequently withdrawn without any liberty.

8. It is the further case of the petitioner that on the basis of the oral partition, the petitioner got his name mutated in the revenue records over his share on 23.08.2021. Subsequent thereto, the petitioner also obtained the planning permit on 27.09.2021 under the provisions of Section 5 of the Guwahati Building Construction (Regulation) Bye-laws, 2014 read with Section 4 of the Guwahati Building Construction

(Regulation) Act, 2010. On the basis of the said No Objection Certificate so granted, the petitioner claims that he completed 90% of the construction.

9. It is the further case of the petitioner that in the meantime, the respondent No. 8 after failing to obtain the injunction and withdrawing the suit, approached both the GMC and the GMDA authorities. Further to that, the respondent No. 8 also took steps before the Circle Officer, Guwahati Revenue Circle wherein the mutation so granted to the petitioner was cancelled.

10. The resultant effect of the cancellation of the mutation are the impugned orders whereby the respondent No. 7 vide the order dated 05.08.2024 have passed an order whereby the appeal filed by the petitioner was rejected on the ground that the mutation was cancelled. The Chief Executive Officer, Guwahati Metropolitan Development Authority had also revoked the planning permit on the ground that the petitioner is no longer the owner of the land of Dag No. 1110 of Patta No. 1 as the mutation was cancelled. The Commissioner, GMC had also passed an order on 07.12.2024 whereby directions were issued to pull down the entire unauthorized construction on the ground that the planning permit on the basis of which the petitioner raised the construction was cancelled, and thereby the entire construction was categorized as an unauthorized

construction of the RCC building. It is under such circumstances, the present writ petition has been filed.

11. This Court on 20.12.2024 issued notice and further stayed the impugned notice dated 07.12.2024 issued by the Commissioner, GMC. The respondents have appeared before this Court, and it is the case of the respondents that as the mutation in respect to the land has been cancelled, the very planning permit so granted to the petitioner being on the basis of the mutation order, is also liable to be cancelled and accordingly cancelled.

12. Mr. R. De, the learned counsel appearing on behalf of the respondent No. 8 submitted that after the withdrawal of the suit being Title Suit No. 297/2022 (New), the respondent No. 8 had not filed any suit.

13. This Court has given anxious consideration to the submissions made, the materials on record as well as the impugned orders so passed.

14. The fact that the petitioner is the son of Late Mahmuda Begum is not in dispute. The fact that the respondent No. 8 was sold a plot of land admeasuring 11 Lechas out of the 1 Katha 9 Lechas of Dag No. 1110 of Patta No. 1 of Village South Sarania, Guwahati is also not in dispute.

15. It is a settled principle of law that mutation does not confer any title nor extinguish a title. The fact that the petitioner was issued a planning permit is also not in dispute. It therefore appears that there is an inter se dispute between the petitioner and the respondent No. 8, which is purely a civil dispute. The question, therefore, arises, as to whether, the Respondent Authorities ought to have interfered in the private dispute between the petitioner and the respondent No. 8 and exercise its jurisdiction.

16. It is not the case of the Respondent Authorities as would be seen from the impugned orders that there is any violation to any of the building bye-laws or the approved plan. The reason for dismissal of the appeal filed by the petitioner vide the order dated 05.08.2024 by the respondent No. 7, the order dated 19.11.2024 by the respondent No. 3 as well as the order dated 07.12.2024 by the respondent No. 5 are all based upon cancellation of the mutation order.

17. It is the opinion of this Court that the impugned orders which have been assailed in the instant proceedings cannot sustain the scrutiny of law, and are required to be interfered with as the ground on which the impugned orders are passed cannot be sustained in law.

18. Accordingly, the writ petition stands disposed of with the following observations and directions:

(i) The impugned order dated 05.08.2024 passed by the Member, Mayor-in-Council (Appeal), Guwahati Municipal Corporation i.e. the respondent No. 7 is set aside and quashed.

(ii) The impugned order dated 19.11.2024 passed by the Chief Executive Officer, Guwahati Metropolitan Development Authority i.e. the respondent No. 3 is set aside and quashed.

(iii) The impugned order dated 07.12.2024 passed by the Commissioner, Guwahati Municipal Corporation i.e the respondent No. 5 is set aside and quashed.

(iv) The dispute between the petitioner and the respondent No. 8 being a dispute of civil nature, the observations made and the findings given in the instant proceedings shall not prejudice either the petitioner or the respondent No. 8 in any civil proceedings initiated amongst them, subject to being permissible under law.

(v) This Court further observes that the impugned orders have been set aside on the ground that the reason for passing the impugned orders cannot be sustained as mutation cannot confer or extinguish any title over the property. However, the setting aside of the impugned orders would not divest the power of the Respondent Authorities to take action in the circumstance there

is any violations to the building bye-laws.

JUDGE

Digitally signed by Satyam Sharma
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Comparing Assistant