GAHC010301642019

2026:GAU-AS:16697

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

Case No. : WP(C)/9135/2019

LUTFA BEGUM
D/O- TASIR ALI LASKAR, W/O- MD. ABDUL JALIL, R/O- VILL- UTTAR ASHINAGAR, P.S- DOBOKA, DIST- HOJAI, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS
REP. BY THE SECRETARY, MIN OF HOME AFFAIRS, GOVT OF INDIA, NEW DELHI- 01

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GUWAHATI- 06

3:THE FOREIGNERS TRIBUNAL
NAGAON COURT NO. 10 AT SANKARDEVNAGAR
DIST- HOJAI
ASSAM
PIN- 782442

4:THE DEPUTY COMMISSIONER
HOJAI
P.O SANKARDEV NAGAR
DIST- HOJAI
ASSAM
PIN- 782442

5:THE SUPERINTENDENT OF POLICE (B)
HOJAI

SANKAR DEV NAGAR
HOJAI
ASSAM
PIN- 782442

6:THE OFFICER IN CHARGE
P.S- DOBOKA
DIST- HOJAI
ASSAM
PIN- 782428

7:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI- 110001

8:THE STATE COORDINATOR
NRC
BHANGAGARH
GUWAHATI-

Advocate for the Petitioner : MD. A J ATIA, MS A H ATIA,MS J MARIYAM

Advocate for the Respondent : ASSTT.S.G.I., SC, NRC,SC, F.T,SC, ELECTION COMMISSION.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

Advocate for the petitioner : Mr. A.J. Atia.
Advocate the respondents : Ms. A. Verma, SC, FT & Border matters.
: Mr. A.I. Ali, SC, ECI.
: Mr. P. Sarmah, Addl. Sr. Govt. Advocate.

Date on which judgment is reserved : 07.08.2026.

Date of pronouncement of judgment : 13.11.2026.

Whether the pronouncement is of the operative part of the judgment? : NO.

Whether the full judgment has been Pronounced? : YES.

JUDGMENT AND ORDER

(CAV)

(K.R. Surana, J)

Heard Mr. A.J. Atia, learned counsel for the petitioner; Ms. A. Verma, learned standing counsel for respondent nos. 2, 5, 6 and 8; Mr. A.I. Ali, learned standing counsel for respondent no. 7; and Mr. P. Sarmah, learned Addl. Senior Govt. Advocate for respondent no. 4.

2) It is noticed that the concerned Foreigners Tribunal has been arrayed as respondent no. 3. As the said learned Tribunal is not required to defend its opinion, it is neither a necessary nor a proper party in this writ petition. Therefore, the name of respondent no. 3 is struck-off without requiring altering seriatim of respondents.

3) By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Musstt. Lutfa Begum has challenged the opinion dated 05.09.2019, passed by the learned Foreigners Tribunal, Nagaon 10th, Sankardev Nagar, Hojai, Assam, in F.T.(D) Case No. 1468/2015, arising out of S.| P.(B)'s F.T. Case No. 483/2013, thereby declaring her to be a foreigner entering into Assam illegally without any valid document from the specified territory (i.e. Bangladesh) after 25.03.1971.

4) The learned counsel for the petitioner has submitted that the petitioner had exhibited 18 (eighteen) documents as exhibits to prove her defence that she was not a foreigner, but the learned Tribunal disbelieved the pleadings and evidence due to minor discrepancies in the names and age of voters on comparative reading of the exhibited documents. It was submitted

that the State had failed to discharge its burden of proof by not examining any independent witnesses. Moreover, the learned Tribunal had failed to appreciate that as the petitioner was born in India, she was a citizen of India as per the provision of Section 3 of the Citizenship Act, 1955. It was submitted that the names of the grandparents, parents and paternal uncles appeared in the voter lists all throughout from the same village. The petitioner was a student of Karoiguri Muktab School and left the school on 31.12.1985, for which the petitioner had relied on the School Head Master's certificate. The petitioner was married to Abdul Jalil Mazumdar, son of Matiur Rahman Mazumdar of village- Uttar Ashinagar, P.S. Doboka, Dist. Nagaon, Assam, on 01.03.1992 vide registered Kabinnama no. 244/1992. It was also submitted that the grandfather of the petitioner owned two plots of land, one of which was purchased vide registered sale deed dated 27.08.1946, and after his death, the said plots of land came to be mutated in the names of her father and maternal uncles. Her father, uncles and paternal aunts also owned a plot of land which was mutated in their names. It was submitted that the grandfather of the petitioner had travelled with "Pilgrim Pass" to Mecca, bearing R/C No. 5114 dated 02.08.1946, which was issued by the Haj Committee. It was also submitted that the petitioner was not served with grounds for suspecting the petitioner to be a foreigner and therefore, the impugned opinion was not sustainable on facts and in law.

5) The learned counsel for the petitioner had referred to the written statement filed by the petitioner and her evidence-on- affidavit as DW-1 and had submitted as follows:-

a. In her written statement the petitioner had stated that her

parents and grandparents were citizens of India. She was born and brought up at Pub Jaruni, under Murajhar P.S., in the district of Nagaon, Assam. Her grandfather is Abdul Jabbar @ Munshi Abdul Zabbar, who had died in the year 1962. Her grandmother is Ayujan Bibi, who had died in the year 1960. Her father is Tasir Ali @ Tasir Ali Laskar and her mother is Fulerun Nessa. It was submitted that the grandparents and parents of the petitioner were permanent residents of village- Pub Jaruni, under Murajhar P.S.

b. It was submitted that the names of her grandparents had paternal uncles appeared in the voter list of 1960 of village Pub Jaruni, under then Lanka P.S., under Jamunamukh LAC as (i) Haji Aa. Jabbar, son of Jila, (ii) Ayujan Bibi, wife of Haji Aa. Jabbar, (iii) Iskagur Ali, son of Ha. Aa. Jabbar, and (iv) Irsad Ali, son of Ha. Aa. Jabbar, then District Nagaon. It was submitted that as the father of the petitioner was minor, his name did not appear in the voter list of 1966.

c. It was submitted that in the voter list of 1966 and 1970, the names of paternal uncles of the petitioner were recorded as (i) Iskandar Ali, son of Aa. Jabbar Ali, (ii) Isad, son of Aa. Jabbar and (iii) Jair Ali, son of Aa. Jabbar of village- Pub Jaroni, under Murajhar P.S.

d. The name of the father of the petitioner was recorded in the Electoral Roll of 1971 as Tasir Ali, son of Aa. Jabbar at village Pub Jaroni under Murajhar P.S. in the District of Nagaon (Assam), under 93 No. Hojai L.A.C.

e. The name of her paternal uncles and father were recorded in the Electoral Roll of 1975 as (i) Iskandar Ali, son of Aa. Jabbar, (ii) Isad Ali,

son of Aa. Jabbar, (iii) Jair Ali, son of Aa. Jabbar, (iv) Tasir Ali, son of Aa. Jabbar, and (v) Batir Ali, son of Aa. Jabbar at village Pub Jaroni under 92 No. Jamunamukh L.A.C

f. The name of her paternal uncles and parents were recorded in the Electoral Roll of 1977 as (i) Iskandar Ali, son of Abdul Jabbar, (ii) Isad Ali, son of Abdul Jabbar, (iii) Jahir Ali, son of Abdul Jabbar, (iv) Tasir Ali Laskar, son of Abdul Jabbar, (v) Batir Ali Laskar, son of Abdul Jabbar, and (vi) Fulerun Nessa, wife of Tasir Ali at village Pub Jaroni under 92 No. Jamunamukh L.A.C.

g. The names of her paternal uncles and parents were recorded in the Electoral Roll of 1985 as (i) Tasir, son of Jabbar, (ii) Batir, son of Jabbar, (iii) Fawjul, son of Jabbar, and (iv) Fulerun, wife of Asir at village Pub Jaruni under 90 No. Jamunamukh L.A.C.

h. The names of her parents were recorded in the Electoral Roll of 1993 as Tasir Ali Long, son of Aa. Jabbar and Fulerun Nessa, wife of Tasir Ali at village Pub Jaroni under 90 No. Jamunamukh L.A.C.

i. The name of her parents were recorded in the Electoral Roll of 1997 as Tasir Ali, son of Ang. Jabbar and Fulerun Nessa, wife of Tasir at village Pub Jaroni under 90 No. Jamunamukh L.A.C.

j. The names of her parents were recorded in the Electoral Roll of 2005, 2010 and 2014 as Tasir Ali, son of Abdul Jabbar and Fulerun Nessa, wife of Tasir Ali at village Pub Jaroni under 90 No. Jamunamukh L.A.C.

k. Her mother expired in the year 2016 as such her father's name was recorded in the Electoral Roll of 2018 as Tasir Ali, son of Abdul

Jabbar at village Pub Jaroni under 90 No. Jamunamukh L.A.C.

l. She has been residing permanently at village Uttar Ashinagar under Doboka, P.S. in the District of Nagaon (Assam), as such the President, Ashinagar Goon Panchayat had issued a certificate in the name of the petitioner.

m. The petitioner is the daughter of Tasir Ali of village Pub Jaruni and as such the Govt. *Gaonburah* of said village had issued a certificate in her name.

n. She was a student of Karoiguri Muktab School and left the said School on 31.12.1985, as such the Head Master of said School had issued a Certificate in her name.

o. On 01.03.1992, her marriage was held at Uttar Ashinagar Town, P.S. Doboka, Dist. Nagaon, Assam vide registered kabinnama no. 244/1992.

p. The name of her father was recorded in the NRC of 1951 as Tasir Ali, son of Aa. Jabrar vide bearing Legacy Data Code No. 280-0018-2330 at village Pub Jaroni.

q. Her name was been recorded in the Electoral Roll of 1997 as Lutfa Begum, wife of Jalil at village Uttar Ashinagar under 90 No. Jamunamukh L.A.C, but marked as "D".

r. The name of her father appeared in the voter list of 1971 as Tasir Ali, son of Aa. Jabbar; in the Voter List of 1985 as Tasir, son of Jabbar; in the voter list of 1993 as Tasir Ali Long, son of Aa. Jabbar; in the Voter List of 1997 as Tasir Ali, son of Ang. Jabbar; in the NRC 1951 as Tasir Ali, son of Aa. Jabrar. Likewise, the name of her mother was

recorded in the Voter List of 1977 as Fulorun Nessa, wife Tasir Ali; in the Voter List of 1985 as Fulerun wife of Asir; in the Voter List of 1997 as Fulerun Nessa, wife of Tasir. Thus, it was submitted that all the names viz., Abdul Jabbar, Abdul Jabbar Munchi, Aa. Jabbar, Aa. Jabrar and Ang Jabbar are the names of one and same person i.e. the grandfather of the petitioner. The names, Tasir Ali Laskar, Tasir Ali, Tasir and Asir are the names of one and same person i.e. the father of the petitioner. The names, Fulerun Nessa, Fulorun Nessa and Fulerun are the names of one and same person i.e. the mother of the petitioner.

s. It was submitted that name of the petitioner has been enrolled in the electoral rolls of 1971, 1985, 1993, 1997, 2005, 2010, 2014 and 2018 and the name of her mother was been enrolled in the electoral rolls of 1977, 1985, 1993, 1997, 2005, 2010 and 2014.

t. It was submitted that in her evidence, the petitioner had exhibited the sale deed dated 14.03.1933 and sale deed dated 27.08.1946, regarding purchase of land by her grandfather as well as *jamabandi* to prove the presence of her grandfather in the same village prior to independence of the Country.

u. It was submitted that there are some minor discrepancies in respect of age and spelling of name of the petitioner, her parents and grandfather, which are mistakes while preparing the electoral rolls. Accordingly, it was submitted that these minor discrepancies were liable to be ignored as those mistakes were not made by the petitioner.

v. It was submitted that the petitioner, her parents and grandparents

are *bona fide* Indian citizen and thus, they have not entered in India illegally after 25.03.1971 from Bangladesh.

6) Per contra, the learned standing counsel for the Border and FT matters has made her submissions to support to the impugned opinion. It was submitted that the petitioner did not exhibit any document which shows the presence of the petitioner and her parents together and the two documents which could possibly link the petitioner with her projected parents were the school certificate (Ext.12) and kabinnama (Ext.13), which were not proved by the petitioners by examining their authors. It was submitted that the petitioner did not plead about sale deed dated 27.08.1946 (Ext.17) in her written statement and the *jamabandi* (Ext.15) does not contain the reason how the names of the projected father of the petitioner was entered in the land revenue records. It was also submitted that DW-2 and DW-3 did not prove any document to establish the linkage of the petitioner with her projected parents and grandparents. Thus, it was submitted that the impugned opinion did not call for any interference.

7) It is seen from the records that the petitioner, in support of her defence, had filed her evidence-on- affidavit and had reiterated the statements which she had made in her written statement. The petitioner had exhibited the following 18 (eighteen) documents:-

a. *Certified copy of voter list of 1966 (Ext.1).*
b. *Certified copy of voter list of 1970 (Ext.2).*
c. *Certified copy of voter list of 1971 (Ext.3).*
d. *Certified copy of voter list of 1993 (Ext.4).*
e. *Certified copy of voter list of 1997 (Ext.5).*
f. *Certified copy of voter list of 2005 (Ext.6).*
g. *Certified copy of voter list of 2010 (Ext.7).*

h. *Certified copy of voter list of 2014 (Ext.8).*
i. *Certified copy of voter list of 2018 (Ext.9).*
j. *Death certificate of Fulerun Nessa dated 18.01.2016 (Ext.10).*
k. *Certificate dated 23.01.2016, issued by President, Ashinagar Gaon Panchayat (Ext.11).*
l. *Certificate dated 08.05.2017, issued by the Head Master of Koroiguri Moktab School, Koroiguri (Ext.12).*
m. *Kabinnama registered on 13.02.1992 (Ext.13).*
n. *Computer generated jamabandi copy (Ext.14) (not found available in the Tribunal's record).*
o. *Certified copy of jamabandi (Ext.15).*
p. *Original Sale Deed No. 291 dated 14.03.1933 (Ext.16).*
q. *Original Sale Deed No. 7548 dated 28.08.1946 (Ext.17).*
r. *Certified copy of voter list of 1975 (Ext.18)*.

8) In her cross-examination, the petitioner (DW-1) had stated that her father are 7 (seven) brothers. They are Late Maskandar Ali, Late Iskandar Ali, Late Joir Ali, Late Ishad Ali, Batir Ali, Tasir Ali and Faijul Hoque Ali. Her father had one sister, Late Atabun Nessa. The name of her grandfather is Late Abdul Jabbar Munshi. She has 7 (seven) brothers and sisters, namely, Kamruddin (approx. 50 years), Ramijuddin (40 years approx.), Soifuddin (35 years approx.), Khairun Nessa Begum (45 years approx.), Nehar Begum (35 years approx.), Hasna Begum (33 years approx.) and Lutfa Begum (40 years approx.). She had stated that she had never casted her vote though her name was enlisted in the voters lists. She had submitted the death certificate of her mother. She resides at Uttar Ashinagar and as a proof of her residence, she had filed certificate from *Gaonburah* and Gaon Panchayat. She was married with Abdul Jalil 30 (thirty) years ago and as a proof of her marriage, she had submitted kabinnama. She has six daughters and no son. Her daughters are Afsana Begum (22 years approx.), Selina Afruz, Alifa Begum (13 years approx.), Jumana Begum (11 years), Ajija Siddika (10 years) and Ajuwa Begum (6 years).

She had stated that as she cannot see properly, she is finding difficult to state what documents she had submitted.

9) In her reply to the learned Tribunal's queries, the petitioner had stated that she was born about 40 years ago. Her father was born in Pub Jaroni village and her mother, Late Fulerun Nessa was born in Paschim Jaroni village. He father is presently aged 65 years. Her mother had expired 3 years ago and she does not remember her age at the time of her death. She had studied in school upto Class-II and III. She had filed certificate of studying in school. Her father were 7 (seven) brothers.

10) In support of her defence, the petitioner had also examined Md. Tasir Ali Laskar @ Tasir Ali, her projected father as DW-2, who in his evidence-on- affidavit had stated that the petitioner is a citizen of India by birth and a permanent resident of village- Uttar Ashinagar, P.O. Nilbagan, P.S. Doboka, Dist. Hojai (Assam). She was born and brought up at village- Pub Jaruni, P.O. Karoiguri, P.S. Murajhar, Dist. Hojai (Assam). He had stated that the petitioner is his daughter and his name has been recorded in the voter list since 1971 and village- Pub Jaruni under Murajhar P.S., in the district of Nagaon. The name of his brothers have appeared in the electoral rolls of 1966, 1970 and 1985. His name appears in the electoral roll since 1971 and the name of his mother appeared in the electoral roll of 1985, 1993, 1997, 2005, 2010, and 2014 and the certified copies thereof has been exhibited by the petitioner. His parents had expired in village- Pub Jaruni. He had also reiterated that the petitioner is not a foreigner but Indian by birth and her grandparents and parents were *bona fide* Indian citizens and the petitioner has sufficient documents to prove her citizenship. In his cross-examination, DW-2 had stated that his daughter was

born in 1971 at village- Pub Jaruni through his marriage with Late Fulerun Nessa, who died on 01.01.2006. He was residing and casting his vote since 1971 and his brother Batir Ali Laskar also continued to cast his vote there. He had stated that his parents were Haji Abdul Jabbar and Late Ajuja Bibi and that he had 8 (eight) siblings. He had stated that the petitioner got married in 1992 with Abdul Jalil Mazumdar and started to reside with her husband at Uttar Ashinagar. He had placed reliance on the school certificate, Gaon Panchayat certificate and Kabinnama submitted in the case to prove his parentage of the petitioner.

11) The learned Tribunal had discarded the Gaon Panchayat Certificate (Ext.11), School certificate (Ext.12), and kabinnama (Ext.13), as those documents were not proved in accordance with law and had no probative value. The learned Tribunal then proceeded to describe the contents of Ext.1 to Ext.10 and Ext.14 to Ext.18 and on the basis of the said exhibited documents, held that the said exhibited voter's lists proved the existence of persons whose names appeared therein. The learned Tribunal had discarded Ext.10 and Ext.17 because the said documents were not referred in petitioner's written statement.

12) In respect of the *jamabandi* (Ext.14), it was observed that as pleaded in written statement, the said document shows Tasir Ali as the son of Aa. Jabbar and as a *pattadar* of plot of land covered by Dag no. 218, 225, 226 and 31 of P.P. No. 28 at village Pub Jaroni and the remark column shows that Tasir Ali had become *pattadar* of the said plot of land by dint of mutation by inheritance from his father, Abdul Jabbar Munshi on 08.02.1976. However, the said *jamabandi* (Ext.14) was discarded as it was a computer generated copy and Section 65-B(4) of the Evidence Act, 1872 needed to be applied to ascertain

its authenticity and held the non-applicability of the said provision by the petitioner has made the document unreliable for evidence. Similarly, by referring to the contents of the *jamabandi* (Ext.15), it was observed that the same proves that Maskandar Ali, Iskandar Ali, Isad Ali, Jahir Ali, Tasir Ali, Batir Ali, Foizul Hoque and Atabun Nessa as sons and daughters of Aa. Jabbar and as *pattadars* of a plot of land covered by Dag nos. 219, 220, 222, 223, 224 and 556 of P.P. No. 149 situated at Pub Jaroni Gaon under Mouza Namati. However, as the remarks column is silent in respect of recording of the said persons as *pattadars*, so it was discarded as unreliable.

13) *Jamabandi* (Ext.14), which is not found in the learned Tribunal's record, is referred by the learned Tribunal as a computer generated one. The learned Tribunal has not held that Ext.14 is not a certified copy of *jamabandi*. A *Jamabandi* is a land revenue record, which is issued by the public authority from the public record. Therefore, if the land revenue authorities issue a certified copy of *jamabandi* without due certification under Section 65-B(4) of the Evidence Act, 1872, the learned Tribunal ought not to penalize the petitioner for the same because the petitioner is an illiterate woman, who had affixed her *right hand thumb* impression in her written statement and evidence-on-affidavit and therefore, the learned Tribunal ought to have recorded its objection as to the admissibility of the said piece of documentary exhibit, when the petitioner was not questioned on admissibility of the said documentary evidence during her cross-examination. A *jamabandi* is a land revenue record, which is maintained by the concerned land and revenue establishment under the Revenue Department of the State Government and are under the establishment of the concerned District Commissioners of the Districts in the State of Assam.

The learned Tribunal appears to have failed to take into consideration that as per the provisions of Section 41(2) of the Assam Land and Revenue Regulation, 1886, it is provided that the entry in the record-of- rights made under the said section shall, unless the contrary is proved, presumed to be correct.

14) Similarly, by referred to the sale deed dated 14.03.1933 (Ext.16), it was held that as pleaded in the written statement, the said document shows Abdul Jabbar Munshi as a resident of village Pub Jaroni and as a purchaser of a plot of land covered by Dag No. 79, 80, 86, 87 and 88 of P.P. No. 13, situated at Pub Jaroni Kissamat under Na-mati Mouza. However, the said document was discarded as it was required to be proved on the basis of record, which was not done for which it had lost its probative value.

15) The learned Tribunal had observed that the name of the petitioner did not appear as an electorate in any voter list and the reason is unexplained by the petitioner. It was observed that DW-1 and DW-2 had stated in their cross-examination that Maskandar Ali was their paternal uncle and brother respectively, but his name did not appear as an electorate in any voter list. The learned Tribunal had held that the petitioner had suppressed her age and date/year of birth, names of her brothers and sisters and date/year of her marriage. It was held that from the cross-examination of DW-2 and Ext. nos. 3 to 9, it can be presumed that the projected father, Tasir Ali of the petitioner has presence in Indian soil since prior to 1971, but the petitioner's failure to establish her relationship with her projected parents marred her claim of citizenship of India. Accordingly, it was held that the petitioner had failed to prove and establish her claim of citizenship of India by discharging her mandatory burden and liability as per Section 9 of the Foreigners Act, 1946.

Consequently, the petitioner was declared to be a foreigner of who had illegally entered into India on or after 25.03.1971 from the specified territory without any valid document.

16) At the outset, it may be mentioned that the *jamabandi*, which was proved and marked as Ext.14 is not available in the record. The other exhibited documents are available in the record at pages 92 to 111 of the Tribunal's record. However, a photocopy thereof is available at pages 68-69 of the Tribunal's record. As observed by the learned Tribunal, the said *jamabandi* (Ext.14) discloses that by way of inheritance from Abdul Jabbar, the name of Tasir Ali was mutated as a *pattadar* of the said plot of land by virtue of order dated 08.02.1976, passed by the Assistant Settlement Officer. From the said entry in the *jamabandi* (Ext.14), it can be presumed that the land was in the name of Abdul Jabbar prior to 08.02.1976.

17) The learned Tribunal had arrived at a finding that the names of *pattadars* including Tasir Ali appears in the *jamabandi* (Ext.15), but the said exhibited document was discarded because there was no corresponding entry in the remarks column of the *jamabandi* (Ext.15). However, the learned Tribunal had failed to take notice of the fact that in the remarks column, it was mentioned that the names were entered on receipt of premium for converting the land into a *miyadi* (periodic patta). However, the finding of the learned Tribunal on Ext.15 is not vitiated for discarding the said document.

18) However, in respect of the 2 (two) exhibited sale deed dated 14.03.1933 (Ext.16) and 27.08.1946 (Ext.17) is concerned, the said two documents are of pre-independence period. The learned Tribunal has not given a finding that the said two sale deeds were not the original documents,

however, the learned Tribunal has been oblivious of the provision of Section 90 of the Evidence Act, 1872, corresponding to Section 92 of the Bhartiya Sakshya Adhiniyam, 2023, which provides certain presumptions in respect of a document which is proved to be thirty years old and is produced from custody which the Court considers proper. Therefore, there was no requirement for the petitioner to prove the said two exhibited sale deeds on the basis of records. The learned Tribunal has also failed to appreciate that the petitioner is not claiming title through those two sale deeds, but she is claiming her lineage through the said two sale deeds. The learned Tribunal has perhaps not considered that there is a remote probability that a person would part with two original sale deeds registered on 14.03.1933 and 27.08.1946 with a stranger and moreover, the learned Tribunal, while discussing sale deed dated 14.03.1933 (Ext.16), has accepted that the same shows Abdul Jabbar Munshi to be a resident of Pub Jaroni village and the petitioner claims the said Abdul Jabbar Munshi to be her grandfather. Moreover, while discussing Ext. nos. 3 to 9, the learned Tribunal has specifically held that the pleading in the written statement and the said exhibits prove that Tasir Ali is the son of Abdul Jabbar of Pub Jaroni. The petitioner claims Tasir Ali to be her father.

19) While discussing the *jamabandi* (Ext.14), the learned Tribunal had held that Tasir Ali is the son of Abdul Jabbar and that he had become *pattadar* by dint of mutation. In the discussions made in the paragraph 12 above, the learned Tribunal had held that Tasir Ali is the son of Aa. Jabbar. Thus, in the considered opinion of the Court, as Tasir Ali cannot possibly be the son of two persons, the only presumption is that Aa. Jabbar and Abdul Jabbar are same and one person.

20) Thus, the discarding of the two *jamabandi* (Ext.14 and Ext.15) and the two sale deeds (Ext.16 and Ext.17) is not found sustainable on facts and in law.

21) Therefore, in light of discussions above, this Court is inclined to hold that the impugned opinion dated 05.09.2019, passed by the learned Foreigners Tribunal, Nagaon 10th, Sankardev Nagar, Hojai, Assam, in F.T.(D) Case No. 1468/2015, arising out of S.P.(B)'s F.T. Case No. 483/2013, is vitiated by jurisdictional error by not appreciating the evidence in light of the legal provisions referred above in respect of Ext.14 to Ext.17. As the Court is exercising supervisory jurisdiction and not appellate jurisdiction, this Court would refrain from substituting the opinion rendered by the learned tribunal with the view of the Court.

22) Hence, this writ petition is allowed. The impugned opinion dated 05.09.2019, passed by the learned Foreigners Tribunal, Nagaon 10th, Sankardev Nagar, Hojai, Assam, in F.T.(D) Case No. 1468/2015, arising out of S.P.(B)'s F.T. Case No. 483/2013, is set aside. However, the matter is remanded back to the said learned Tribunal for a fresh hearing and opinion in accordance in law.

23) There shall be no order as to cost.

24) In the event the learned Tribunal is still of the view that the said Ext. 14 to Ext.17 is required to be proved by records, then the petitioner would be given an opportunity to take steps to call for the records from the concerned authorities in the event the records are not produced by the authorities at the request/ prayer made by the petitioner.

25) The petitioner, who is represented by her learned counsel in this

matter, is directed to appear before the said learned Tribunal within the outer time of 15.12.2026, and by producing a certified copy of this order, wait for further orders to be passed by the learned Tribunal.

26) Moreover, the petitioner shall be also ready to make a prayer for bail and if such a prayer is made, the same shall be considered and the bail so granted shall be made effective for a period upto 30 (thirty) days from the date of fresh opinion to be passed by the said learned Tribunal.

27) The Registry shall return the learned Tribunal's record expeditiously along with a copy of this judgment and order to be made a part of record by the said learned Tribunal for future reference.

28) The learned standing counsel for the Border and FT matters shall transmit a downloaded copy of this order to the concerned authorities including the Superintendent of Police (Border), Hojai, Sankardev Nagar for their information.

JUDGE **JUDGE**

Digitally signed by Champak Rajbongshi
Date: 2026.11.13 14:05:17 +05'30'

Comparing Assistant **Private Secretary**