

GAHC010029522026



2026:GAU-AS:2737

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

Case No. : I.A.(Civil)/519/2026

ATIKUR RAHMAN
SON OF LATE MR ABIDUR RAHMAN AND LATE MRS RUMENA RAHMAN
RESIDENT OF HOUSE NO 22 URBAN CITY COMPLEX NEAR
INTERNATIONAL HOSPITAL GS ROAD GUWAHATI DISTRICT KAMRUP
METRO ASSAM 781005

VERSUS

THE STATE OF ASSAM AND ORS
THE DISTRICT COMMISSIONER GOVT OF ASSAM REPRESENTED BY MR
SWAPNEEL PAUL IAS OFFICE OF THE DISTRICT COMMISSIONER GOVT OF
ASSAM ADMINISTRATIVE BRANCH LICHUBAGAN HENGRABARI
GUWAHATI 36 DISTRICT KAMRUP METRO ASSAM

2:THE ADDL DISTRICT COMMISSIONER
OFFICE OF THE DISTRICT COMMISSIONER GOVT OF ASSAM
ADMINISTRATIVE BRANCH LICHUBAGAN HENGRABARI GUWAHATI 36
DISTRICT KAMRUP METRO ASSAM

3:MRS AFROZA RAHMAN
WIFE OF LATE ADILUR RAHMAN RAHMAN BUILDING HOTEL DYNESTY
SS ROAD LAKHTOKIA GUWAHATI DISTRICT KAMRUP METRO ASSAM
781001

4:MS AZANA RAHMAN
DAUGETER OF LATE ADILUR RAHMAN RAHMAN BUILDING HOTEL
DYNESTY SS ROAD LAKHTOKIA GUWAHATI DISTRICT KAMRUP METRO
ASSAM 78100

Advocate for the Petitioner : MS ADRITA BHUYAN,

Advocate for the Respondent : ,

Linked Case : Cont.Cas(C)/648/2025

ATIKUR RAHMAN

SON OF LATE MR ABIDUR RAHMAN AND LATE MRS RUMENA RAHMAN
RESIDENT OF HOUSE NO 22 URBAN CITY COMPLEX NEAR
INTERNATIONAL HOSPITAL GS ROAD GUWAHATI DISTRICT KAMRUP
METRO ASSAM 781005

VERSUS

THE STATE OF ASSAM AND 3 ORS.

THROUGH THE DISTRICT COMMISSIONER GOVT OF ASSAM OFFICE OF
THE DISTRICT COMMISSIONER GOVT OF ASSAM ADMINISTRATIVE
BRANCH LICHUBAGAN HENGRABARI GUWAHATI 36 DISTRICT KAMRUP
(METRO) ASSAM

2:THE ADDITIONAL DISTRICT COMMISSIONER

OFFICE OF THE DISTRICT COMMISSIONER GOVT OF ASSAM
ADMINISTRATIVE BRANCH LICHUBAGAN HENGRABARI GUWAHATI 36
DISTRICT KAMRUP (METRO) ASSAM

3:MRS AFROZA RAHMAN

WIFE OF LATE ADILUR RAHMAN RAHMAN BUILDING HOTEL DYNASTY SS
ROAD LAKHTOKIA GUWAHATI DISTRICT KAMRUP METRO ASSAM 781001

4:MS AZANA RAHAMAN

DAUGHTER OF LATE ADILUR RAHMAN RAHMAN BUILDING HOTEL
DYNASTY SS ROAD LAKHTOKIA GUWAHATI DISTRICT KAMRUP (METRO)
ASSAM
PIN- 781001

Advocate for : NISHANT DAS

Advocate for : appearing for THE STATE OF ASSAM AND 3 ORS.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

For the Petitioner/Applicant(s) : Mr. N. Das, Advocate

For the Respondents(s) : None appears

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

Date of pronouncement of judgment : **23.02.2026**

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. N. Das, the learned counsel appearing on behalf of the petitioner/applicant.

2. This is an application alleging willful and deliberate violation to the order dated 24.07.2024 passed in WP(C) No. 5328/2023.

3. It is seen from the records that, as on date, no notice has been issued in the instant contempt application. Be that as it may, it is very pertinent to take note of the brief facts leading to the filing of the present application.

4. The petitioner being aggrieved by certain actions on the part of the Additional Deputy Commissioner, Kamrup (M) in issuing a Next of Kin Certificate to the respondent Nos. 3 and 4 herein had filed a writ petition being WP(C) No. 6597/2022. The grievance in the said writ petition was that the petitioner had lodged a complaint before the concerned authority seeking cancellation of the Next of Kin Certificate issued to the respondent Nos. 3 and 4 herein, but no action were taken thereon.

5. The said writ petition being WP(C) No. 6597/2022 was disposed of with a direction to the Additional Deputy Commissioner, Kamrup (M) to consider the grievances and issues raised by the petitioner and bring the same to a logical end by passing a final order thereupon within a period of 1 (one) month from the date of receipt of the certified copy of the order.

6. It further appears from the materials on record that the petitioner, thereupon, filed a contempt application which was registered and numbered as Cont.Cas(C) No. 786/2022. However, the said contempt application was closed, taking into account that, in the meantime, the Assistant Commissioner & B.O., Kamrup Metropolitan District had passed an order on 03.02.2023.

7. The said order dated 03.02.2023 was assailed by the petitioner by filing another writ petition which was registered and numbered as

WP(C) No. 5328/2023. The said writ petition was disposed of vide an order dated 24.07.2024. Paragraph Nos. 4, 5 and 6 of the said order dated 24.07.2024, being relevant for the purpose of the instant adjudication, are reproduced herein under:

“4. This Court takes note of the contents of the impugned order which shows that in view of the pendency of Succession Case No.136/2013 before the learned Court of the District Judge, Kamrup (M) at Guwahati, the application so filed by the petitioner for cancellation of the Next of Kin Certificate dated 26.03.2013 was kept in abeyance. It has been submitted at the bar by the learned counsels appearing on behalf of both the parties that the proceedings being Succession Case No.136/2013 has already been disposed of. Under such circumstances, this Court is of the opinion that the authority concerned, i.e. the respondent No.2 can now take up the said application for cancellation of the Next of Kin Certificate for disposal in terms with the direction passed by this Court in its order dated 26.10.2022 in WP(C) No.6597/2022.

5. Accordingly, the instant petition stands disposed of with the above observations and directions.

6. Before parting with the record, this Court however finds it very pertinent to observe that the learned counsels appearing on behalf of the respondent State as well as the private respondents submitted that the petitioner herein has no right whatsoever on the property belonging to Late Adilur Rahman. Taking into account that this is a Writ Court, it would not be proper on the part of this Court to decide the said aspect. However, liberty is given to the private respondents to agitate the said aspect of the matter before the respondent No.2.”

8. It further appears from the above quoted directions in the order dated 24.07.2024 that this Court directed the Additional Deputy Commissioner, Kamrup (M) to take up the application for cancellation

of the Next of Kin Certificate for disposal in terms with the directions passed by the learned Coordinate Bench of this Court in the order dated 26.10.2022 in WP(C) No. 6597/2022, i.e., to dispose of the same within a period of 1 (one) month from the date on which a certified copy of the order dated 26.10.2022 was served.

9. The record further reveals that the petitioner, however, did not serve the certified copy of the order dated 24.07.2024 passed in WP(C) No. 5328/2023 until 13.02.2025. It further appears that after submission of the said certified copy of the order dated 24.07.2024 on 13.02.2025, the petitioner submitted another representation on 25.04.2025. However, as no steps were taken, the petitioner approached this Court by filing a third writ petition on the same issue, which was registered and numbered as WP(C) No. 4067/2025.

10. It is very pertinent to take note of that on 25.07.2025, the learned counsel representing the petitioner in the said proceedings submitted before this Court that the authorities had in the meantime initiated the process for cancellation of the Next of Kin Certificate issued to the respondent Nos. 3 and 4, and that the petitioner would bring the same on record by filing an affidavit.

11. It is also very pertinent to take note of that on 13.05.2025, the Sub-Divisional Officer (Sadar), Kamrup Metropolitan District had written a letter to the Circle Officer, Guwahati Revenue Circle inter alia

directing the said Circle Officer to take up the matter pertaining to the cancellation of the Next of Kin Certificate in view of the directions passed by this Court.

12. The record further reveals that on 10.11.2025, when WP(C) No. 4067/2025 was listed before this Court, the petitioner submitted that the petitioner wanted to withdraw the writ petition with liberty to file afresh in view of subsequent development and providing more particulars. This Court, vide an order dated 10.11.2025, permitted such withdrawal with liberty as prayed for.

13. The petitioner, thereupon, instead of filing a fresh writ petition, filed the instant contempt application. Strangely enough, the respondent Nos. 1 and 2 were arrayed as the State of Assam and the Additional District Commissioner, without impleading the incumbents who were holding the posts. It is no longer *res integra* that an Office or the State cannot violate an order passed by the Court. It has to be the incumbent holding the post who can only be charged with contempt. Under such circumstances, when the instant contempt application was filed, the learned counsel appearing on behalf of the petitioner on 17.12.2025, sought for time to file an application for arraying contemnor Nos. 1 and 2 by name. Accordingly, an application was filed being I.A.(Civil) No. 519/2026.

14. This Court has perused the said Interlocutory Application and is

further shocked and surprised to see the manner in which the applicant have chosen to array the contemnor Nos. 1 and 2. From a perusal of the said Interlocutory Application, it is seen that contemnor No. 1 continues to be the State of Assam represented through the District Commissioner. Similarly, contemnor No. 2, has been arrayed as the Additional District Commissioner, Kamrup (M), but the difference is that by filing the instant application, the names of the incumbents occupying the said posts have also been mentioned. Therefore, the manner in which the Applicant seeks to implead is also completely misconceived.

15. This Court also takes note of that the instant application so filed does not include any document to show that the present incumbents in the post of the District Commissioner or the post of the Additional District Commissioner have been issued any notice. It is well settled that a contempt application would lie when there is willful and deliberate violation of the order passed by the Court and therefore without putting the incumbent to notice about the directions passed by this Court, the question of willful and deliberate violation cannot arise.

16. The materials on record also show that the petitioner after having sought for liberty for filing a fresh writ petition have instead filed the present contempt application. It is also apparent from the

records that the petitioner is well aware that it is the Circle Officer who is entrusted to adjudicate on the application filed by the petitioner for cancellation of the Next of Kin Certificate. The petitioner accepted the same and brought it to the notice of this Court by making due submissions on 25.07.2025. Under such circumstances, the petitioner cannot now be permitted to initiate a contempt application for willful or deliberate violation to the order dated 24.07.2024 passed in WP(C) No. 5328/2023.

17. In addition to that, the manner in which the contempt application has been filed, arraying the contemnor No. 1 as the State of Assam and the contemnor No. 2 as the Additional District Commissioner, Kamrup (M) is totally misconceived.

18. Accordingly, the Interlocutory Application so filed, being misconceived, stands rejected.

19. It is also the opinion of this Court that for the reasons assigned above, no notice for initiating contempt can be issued, for which, the contempt application stands rejected.

20. The rejection of the instant contempt application or the accompanying Interlocutory Application seeking impleadment shall not, however, prejudice the petitioner to pursue before the concerned Circle Officer, Guwahati Revenue Circle seeking cancellation of the

Next of Kin Certificate, which was the subject matter in the 3 (three) writ petitions referred to hereinabove.

JUDGE

Digitally signed by Satyam Sharma
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Comparing Assistant