

GAHC010108962019



2026:GAU-AS:6314

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

**Case No. : WP(C)/3227/2019**

MIRA DEY CHOUDHURY  
W/O- LT SADHAN RANJAN DEY CHOUDHURY, R/O- H.NO. 5, BY-LANE  
NO.1, RAMKRISHNA SARANI, NATIONAL HIGHWAY, SILCHAR- 788012

VERSUS

THE STATE OF ASSAM AND 6 ORS.  
REP. BY THE COMM. AND SECY. TO THE GOVT.OF ASSAM, URBAN  
DEVELOPMENT DEPTT., DISPUR, GHY-6

2:THE DIRECTOR  
TOWN AND COUNTRY PLANNING  
DISPUR  
GHY-6

3:THE DY. DIRECTOR  
TOWN AND COUNTRY PLANNING  
DISTRICT OFFICE  
SILCHAR  
P.O. SILCHAR  
DIST- CACHAR  
ASSAM

4:THE DY. COMMISSIONER  
CACHAR  
SILCHAR

5:THE CHAIRMAN  
SILCHAR MUNICIPAL BOARD  
P.O. SILCHAR  
DIST- CACHAR  
ASSAM

PIN- 788001

6:RAJIB DUTTA  
S/O- LT SATYA RANJAN DUTTA  
R/O- BY-LANE NO 1  
RAMKRISHNA SARANI  
NATIONAL HIGHWAY  
SILCHAR- 788012

7:BANNISIKHA DEB ROY  
W/O- RAJIB DUTTA  
R/O- BY-LANE NO 1  
RAMKRISHNA SARANI  
NATIONAL HIGHWAY  
SILCHAR- 78801

**Advocate for the Petitioner** : MR. S P CHOUDHURY, MR. A S DHILLON

**Advocate for the Respondent** : GA, ASSAM, MR. S DUTTA,MR. C SHARMA,MR SISHIR DUTTA,MR H K DAS

**BEFORE  
HONOURABLE MR. JUSTICE KARDAK ETE**

**ORDER**

**Date : 07.05.2026**

Heard Mr. S. P. Choudhury, learned counsel for the petitioner. Also heard Mr. S. Dutta, learned Senior Counsel assisted by Mr. S. Dutta, learned counsel for respondent No. 5. None appears for the respondent Nos. 1, 2, 3, 4, 6 & 7, despite service of notice.

**2.** Challenge made in this writ petition is to the order dated 25.03.2019, passed by the Chairman, Silchar Municipal Board (now Silchar Municipal Corporation), whereby the complaint lodged by the petitioner alleging unauthorized construction undertaken by the respondent Nos. 6 and 7 has been

rejected.

**3.** The case of the petitioner, in brief, is that her late husband had purchased a plot of land in the year 1988, on which the petitioner and her family members are residing in an RCC house constructed thereon. The respondent Nos. 6 & 7 subsequently purchased an adjoining plot of land vide registered deed dated 25.07.2011, situated on the southern side of the petitioner's residence, measuring 7 Kathas 8 Chataks being Patta Nos. 118 & 119 and Dag No. 362 & 363 of Porgona Borakpar, Mouza-Ambikapur in the District of Cachar, along with a half constructed RCC building being Municipal Holding No. 352/1.

**4.** It is the contention of the petitioner that respondent Nos. 6 & 7, thereafter in the name of renovation of the roof of the RCC structure, started making extension towards the boundary wall of the petitioner without maintaining requisite setbacks. Aggrieved thereby, the petitioner submitted a complaint on 31.07.2018 followed by a reminder dated 07.08.2018 before the competent authority.

**5.** Pursuant thereto, the respondent authorities issued notice vide notice dated 11.03.2019 fixing the matter for hearing. Accordingly, the petitioner as well as the private respondents appeared before the Chairman, Silchar Municipal Board. Thereafter, by an impugned order dated 25.03.2019, the Chairman, Silchar Municipal Board, after hearing the parties, rejected the complaint of the petitioner based on the field verification report indicating that there was no mention of any extension of the plinth area of the building on any site nor in the number of floors or any construction of new latrine or septic tank by the respondent Nos. 6 & 7.

**6.** Mr. S. P. Choudhury, learned counsel for the petitioner, submits that although the petitioner participated in the hearing pursuant to the notice dated 11.03.2019, the impugned order has been passed solely on the basis of a field verification which was conducted in the absence of the petitioner. According to him, the said field verification ought not to have been taken into consideration while disposing of the complaint of the petitioner. At the time of hearing, having been made to know the field verification undertaken by the authority in the absence of the petitioner, an objection was raised, but the same was not considered by the authority. Therefore, the impugned order, being based on a field verification conducted in the absence of the petitioner, is illegal and liable to be interfered with.

**7.** Per contra, Mr. S. Dutta, learned Senior Counsel for the Municipal Corporation, respondent No. 5, submits that the impugned order clearly reflects that both the petitioner as well as the respondent Nos. 6 & 7 were heard and the order was passed basing on the field verification conducted by the respondent authorities on the ground. He submits that since the parties were heard and the order was passed on the basis of the materials on the ground, there is no illegality in the impugned order. However, the learned Senior Counsel fairly submits that since the field verification appears to have been conducted in the absence of the petitioner, the matter may be remanded back for a fresh field verification in the presence of all the parties and for fresh consideration thereafter by the respondent Municipal Corporation.

**8.** I have considered the submissions advanced by the learned counsel for

the parties and also perused the materials available on record.

**9.** The dispute in the present proceedings pertains to the allegation of unauthorized construction of the roof by the respondent Nos. 6 and 7 by way of extension of the existing structure towards the boundary wall adjoining the petitioner's land without maintaining the required setbacks. The respondent authorities, upon receipt of the complaint lodged by the petitioner, conducted a field verification and thereafter rejected the complaint by the impugned order dated 25.03.2019.

**10.** On perusal of the records, it appears that the field verification, on the basis of which the impugned order was passed, was conducted without the participation of the petitioner and without any notice to her. While this Court do not doubt the field verification undertaken by the respondent authorities, the principle of fairness requires that the petitioner ought to have been allowed to participate during such verification.

**11.** Having considered that the field verification, on the basis of which the impugned order rejecting the complaint of the petitioner was passed, had been conducted in the absence of the petitioner or without notice, and as agreed to by the learned counsel for the parties, I deem it appropriate to remand the matter back to the respondent authorities, particularly respondent No. 5, for fresh consideration.

**12.** Accordingly, the matter is remanded back to the respondent authorities, particularly the respondent No. 5, for fresh consideration after conducting field

verification afresh in the presence of the petitioner as well as the respondent Nos. 6 and 7.

**13.** The entire exercise, as directed hereinabove, shall be completed within a period of 4 (four) months from the date of receipt of a certified copy of this order. Consequently, the impugned order dated 25.03.2019 passed by the Chairman, Silchar Municipal Board, is hereby set aside.

**14.** Writ petition stands disposed of in terms above.

**JUDGE**

**Comparing Assistant**