

GAHC010142712022



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

Case No. : WP(C)/5026/2022

SHAHNAZ RASUL MANSOOR @ SHAHNAZ RASUL AND 3 ORS
S/O LT. IFTEKHAR RASUL@ ZIAUR RASUL,
R/O DANISH ROAD, LAKHTOKIA, GUWAHATI- 781001, ASSAM, DIST.-
KAMRUP(M)

2: EVAN ZIAUR RASUL
S/O LT. IFTEKHAR RASUL@ ZIAUR RASUL

R/O DANISH ROAD
LAKHTOKIA
GUWAHATI- 781001
ASSAM
DIST.- KAMRUP(M)

3: ZOHEB RASUL
S/O LT. IFTEKHAR RASUL@ ZIAUR RASUL

R/O DANISH ROAD
LAKHTOKIA
GUWAHATI- 781001
ASSAM
DIST.- KAMRUP(M)

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
GENERAL ADMINISTRATION DEPTT., DISPUR, GUWAHATI- 6.

2: THE GUWAHATI MUNICIPAL CORPORATION
TO BE REP. BY ITS COMMISSIONER
PANBAZAR
GUWAHATI- 1.

3:THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
TO BE REP. BY ITS CHIEF EXECUTIVE OFFICER
BHANGAGARH
GUWAHATI- 7
ASSAM.

4:MUSTT. SHAMIM SIRAJ HAZARIKA
W/O LATE SIRAJ HAZARIKA

R/O M.A.ROAD
NEAR HAWELI RESIDENCY
REHABARI
GUWAHATI- 781008
ASSAM
KAMRUP(M).

5:MAJAJ RASUL
S/O LT. EJAJ RASUL

R/O 5TH FLOOR
PRAGOTI APARTMENT
LAKIMI PATH
BELTOLA
GUWAHATI
ASSAM
KAMRUP(M).

6:JINA RASUL TALUKDAR
W/O SEEMANTA TALUKDAR

R/O FLAT NO. 504
JAMINI APARTMENT
HATIGAON ROAD
DISPUR
GUWAHATI- 781006
ASSAM
KAMRUP(M)

Advocate for the Petitioner : MR A R BHUYAN, MS R A MOSTAFI,MR. M A I HUSSAIN

Advocate for the Respondent : SC, GAD, SC, G M D A,SC, GMC

**BEFORE
JOINT REGISTRAR (JUDL.) MR. CHINMOY BARUAH**

ORDER

Date : 10.02.2025

Case taken up before the Lawazima Court.

None appears on behalf of the petitioners.

Perused the records.

The instant matter has been carefully perused and upon such perusal, it has been observed that the notice was issued to the respondent Nos. 4, 5 & 6 by registered post with A/D on 17.08.2022.

Now, in regard to the aforesaid notice issued to the respondent Nos. 4, 5 & 6, it has been observed as follows:–

R4:– It appears that the A/D card has been received bearing the signature of a person, namely, “**Sidik**”. However, it is not known how the recipient is related to the respondent No. 4.

In this context, the Hon'ble Privy Council in the case of **Harihar Banerji v. Ramsashi Roy, 1918 SCC OnLine PC 58** held that *where a notice was sent by registered post properly addressed there is a strong presumption that the notice was properly delivered in the usual course and this is not rebutted by the fact that the acknowledgment is signed by a person other than the addressee*. In the present case, it appears from the A/D card and the office copy of the registered notice that the registered notice was properly addressed to the respondent No. 4. Thus, **in the present case, even though the A/D card was signed by a person other than the addressee, the notice will be presumed to be served on the said respondent (respondent No. 4).**

R5 & R6:– In this regard, it appears that neither the A/D cards nor the un-served notices have been received by the concerned section as of yet.

Besides the aforesaid, it appears that the postal track consignment details regarding the above mentioned notice issued on 17.08.2022 are also not available at the Indian Post Website.

In view of the above, the petitioner is directed to take fresh steps for service of notice upon the respondent Nos. 5 & 6 by registered post with A/D as well as by usual Court process through the office of the learned Civil Judge (Junior Division), Kamrup(M), within 7 (seven) days from the date of this order.

Let the matter be listed again before the Lawazima Court in the second week of March, 2025.

Joint Registrar (Judicial)

Comparing Assistant