GAHC010206892025

2026:GAU-AS:3511

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

Case No. : WP(C)/5378/2025

MUSST. SARIJAN BEWA ALIAS MUST. SARIJON BEWA ALIAS SAJIRON BEWA AND 5 ORS
W/O- LATE BHELKA SHEIKH, R/O- VILL.- KACHARIGAON, P.O. KAMARDANGA, P.S. TAMARHAT, DIST. KOKRAJHAR, ASSAM, PIN- 783370.

2: MUSSTT. SAHIDA BIBI
W/O- ANSAR ALI
VILL.- NO. 1 DAWAGIRI
P.S. GOSSAIGAON
DISTRICT- KOKRAJHAR
ASSAM

3: FATEMA BIBI
W/O- LATE MOHAMMAD ALI SK
RESIDENT OF VILLLAGE-KACHARIGAON
P.O. KAMARDANGA
P.S. TAMARHAT
DISTRICT- KOKRAJHAR
ASSAM

4: FAZAR ALI SK
S/O- LATE MOHAMMAD ALI SK
RESIDENT OF VILLLAGE-KACHARIGAON
P.O. KAMARDANGA
P.S. TAMARHAT
DISTRICT- KOKRAJHAR
ASSAM

5: KODOR ALI
S/O- LATE MOHAMMAD ALI SK
RESIDENT OF VILLLAGE-KACHARIGAON
P.O. KAMARDANGA
P.S. TAMARHAT
DISTRICT- KOKRAJHAR

ASSAM

6: KUDDUS ALI ALIAS KUDDUCH ALI SHEIKH
S/O- LATE MOHAMMAD ALI SK
RESIDENT OF VILLLAGE-KACHARIGAON
P.O. KAMARDANGA
P.S. TAMARHAT
DISTRICT- KOKRAJHAR
ASSA

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM, LAND AND REVENUE DEPARTMENT, DISPUR, GUWAHATI- 06.

2:THE DIRECTOR
LAND AND REVENUE DEPARTMENT
RUPNAGAR
GUWAHATI 32
ASSAM

3:THE DISTRICT COMMISSIONER CUM DISTRICT MAGISTRATE
KOKRAJHAR
ASSAM

4:THE SETTLEMENT OFFICER
DHUBRI
DISTRICT- DHUBRI
ASSAM

5:THE CIRCLE OFFICER
GOLAKGANJ REVENUE CIRCLE
GOLAKGANJ
DISTRICT- KOKRAJHAR
ASSAM

6:KOMILA BIBI
W/O- LATE NUR AMIN SK @ NURUL AMIN
RESIDENT OF VILLAGE- KACHARIGAON
P.S. TAMARHAT
DISTRICT- KOKRAJHAR
ASSAM
PIN- 783332.

7:MOHIBUL ISLAM
S/O- LATE NUR AMIN SK @ NURUL AMIN
RESIDENT OF VILLAGE- KACHARIGAON

P.S. TAMARHAT
DISTRICT- KOKRAJHAR
ASSAM
PIN- 783332.

8:ROBIUL ISLAM
S/O- LATE NUR AMIN SK @ NURUL AMIN
RESIDENT OF VILLAGE- KACHARIGAON
P.S. TAMARHAT
DISTRICT- KOKRAJHAR
ASSAM
PIN- 783332

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Ms. R. Choudhury, Advocate

For the Respondent(s) : Mr. R. Borpujari, Advocate
Mr. H. Sarmah, Advocate
Mr. R. Sarmah, Advocate

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 09.03.2026

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 Ms. R. Choudhury, the learned counsel appearing on behalf of the petitioners. Mr. R. Borpujari, the learned counsel appears on behalf of the respondent Nos.1 & 2; Mr. H. Sarmah, the learned counsel appears on behalf of the respondent Nos.3, 4 & 5 and Mr. R. Sarmah, the learned counsel appears on behalf of the respondent Nos.6 to 8.

2. The petitioners herein have approached this Court seeking a direction upon the respondents to record their names in accordance with the Court orders over 1 bigha of land covered by Dag No.285 of Patta No.91 of village Kacharigaon, Mouza-Duma, Revenue Circle-Gossaigaon in the district of Kokrajhar.

3. The case of the petitioners herein is that the predecessor-in-interest of the petitioners had purchased a plot of land admeasuring 1 bigha covered by Myadi Patta No.91 of Dag No.285 from one Shelka Sheikh by executing a registered Sale Deed No.9432, dated 15.10.1969. During the field mutation carried out on 11.04.2005, 10 lechas of the land was mutated in the name of one Nurul Amin Sheikh, the predecessor-in-interest of the respondent Nos.7 to 9. Being aggrieved by the field mutation, the petitioner No.1 filed a Misc. Case bearing Misc. Case No.2/07-08 before the Circle Officer, Gossaigaon Revenue Circle praying for cancellation of the field mutation in the name of the predecessor-in-interest of the respondent Nos.7 to 9. The Circle Officer, Gossaigaon Revenue Circle passed an order on 11.10.2007 in Misc. Case No.2/07-08 cancelling the mutation of the predecessor-in-interest of the respondent Nos.7 to 9.

4. The predecessor-in-interest of the respondent Nos.7 to 9 preferred a Mutation Appeal being MA No.1/2008 against the order dated 11.10.2007 passed in Misc. Case No.2/07-08 by the Circle Officer of the Gossaigaon Revenue Circle.

5. The Deputy Commissioner-cum-District Magistrate, Kokrajhar vide an order dated 06.04.2009 in MA No.1/2008 set aside the order dated 11.10.2007 passed in Misc. Case No.2/07-08 and upheld the field mutation order dated 11.04.2005.

6. The petitioners thereupon preferred an Appeal before the learned Assam Board of Revenue which was registered and numbered as Appeal Case No.73RA(KR)/09. The learned Assam Board of Revenue, vide an order dated 21.10.2024, dismissed the said Appeal filed by the petitioners holding inter alia that the claim of the predecessor-in-interest of the petitioners was in respect of Dag No.285 of Patta No.91 whereas the disputed Dag was Dag No.285 of Patta No.59. It was also mentioned that the dispute involved between the predecessor-in-interest of the petitioners as well as the predecessor-in-interest of the respondent Nos.7 to 9 was also pending in RSA No.13/2011. Paragraph Nos.10, 11 & 12 of the order passed by the learned Board of Revenue being relevant is reproduced herein under:-

> "*10. The Circle Officer's order cancelling the mutation granted to Respondent No. 4 was based on an erroneous understanding of the*

appellant's claim. Since the appellant has no legal title to the land under Patta No. 59, Dag No. 285, the CO's decision was unsustainable and rightly reversed by the Deputy Commissioner.

11. The Board finds that the appellant, Mustt. Sarijan Bewa, has no valid claim over the disputed land under Patta No. 59, Dag No. 285, as she never purchased the land. Her reliance on a registered sale deed for another plot of land (Patta No. 91, Dag No. 285) is irrelevant to this case. On the other hand, Respondent No. 4's reliance on an unregistered sale deed does not grant him full legal title, but his long-standing possession and the absence of any valid competing claim justify the mutation in his favor. The Deputy Commissioner was correct in reversing the CO's cancellation of the mutation.

12. The appeal is dismissed. The impugned order dated 06.04.2009 passed by the Deputy Commissioner cum District Magistrate, Kokrajhar, in Mutation Appeal Case No. 1/2008 is upheld."

7. At this stage, it is very pertinent to take note of that RSA No.13/2011 arises out of a suit being Title Suit No.9/2008 filed by the predecessor-in-interest of the respondent Nos.7 to 9 wherein the predecessor-in-interest of the respondent Nos.7 to 9 sought for declaration of right, title and interest as well as the acquisition of possessory right.

8. It is pertinent to mention that the land which was the subject matter of dispute in Title Suit No.9/2008 was a plot of land admeasuring 2 kathas 10 lechas covered by Dag No.285 of Periodic Patta No.91 which is the land the petitioners herein claim to be

their land. The said suit as well as the Appeal so filed including RSA No.13/2011 were dismissed.

9. In the backdrop of the above, it is further pertinent to take note of that the petitioners thereupon submitted a representation dated 20.12.2024 before the District Commissioner, Dhubri and Kokrajhar for recording of their names in the record of rights by deletion of the names of the predecessor-in-interest of the respondent Nos.7 to 9 or the respondent Nos.7 to 9. The said application having not been considered, the petitioners have approached this Court.

10. This Court had heard the learned counsels appearing on behalf of the parties and has perused the materials on record.

11. The petitioners herein specifically claim that their predecessor-in-interest had purchased a plot of land admeasuring 1 bigha in Dag No.285 covered by Patta No.91 of village Kacharigaon, Mouza-Duma, Revenue Circle-Gossaigaon in the district of Kokrajhar. The judgment and order passed by the learned Board of Revenue to which this Court had referred to hereinabove and more particularly to the operative portions quoted herein above reveal that it was observed that the claim of the predecessor-in-interest of the petitioners was only in respect of Dag No.285 of Patta No.91 whereas the claim of the predecessor-in-interest of the respondent Nos.7 to 9 was in respect of Dag

No.285 of Patta No.59. It is under such circumstances, the Appeal so filed by the predecessor-in-interest of the petitioners was dismissed thereby affirming the field mutation done on 11.04.2005. There is no challenge to the judgment and order dated 21.10.2024 passed by the learned Board of Revenue, and therefore as on date, the challenge to the order dated 11.04.2005 had attained finality.

12. It is also pertinent to mention that the suit which was being filed by the predecessor-in-interest of the respondent Nos.7 to 9 being Title Suit No.9/2008 though dismissed would not amount to declaration of the right, title and interest of the predecessor-in-interest of the petitioners or the petitioners over the land in question, i.e. Dag No.285 of Patta No.91.

13. This Court further takes note that the grievance of the petitioners is that their names have not yet been mutated in respect to the land covered by Dag No.285 of Patta No.91. In fact, a perusal of the materials on record do not show that either the petitioners or their predecessor-in-interest’s names were mutated at any relevant point of time in Patta No.91 of Dag No.285. Rather, a perusal of Annexure-8 which is a representation filed by the petitioners in the year 2018 to the Circle Officer, Golakganj shows that the petitioners requested the insertion of their names in respect to Periodic Patta No.91 of Dag No.285 on the basis that the predecessor-in-interest of the respondent Nos.7 to 9 had been

unsuccessful in establishing his rights over the land. Nothing has been mentioned why the petitioners did not take further steps in pursuing such application, but it appears from the materials on record that the petitioners awaited for the outcome of the Revenue Appeal being 73RA(KR)/2009 filed before the learned Assam Board of Revenue. The Revenue Appeal filed by the petitioners however was dismissed. It further appears that post the dismissal of the Revenue Appeal filed by the petitioners, they submitted the representation on 20.12.2024 before the District Commissioner which is Annexure-13 to the writ petition.

14. This Court has duly perused the said representation which was submitted on 20.12.2024 wherein there is neither any reference to the application so filed in the year 2018 before the Circle Officer nor there is mention of the dismissal of the Revenue Appeal filed by the petitioners. It is the further opinion of this Court that if the petitioners seek their names to be mutated, it has to be mutated on the basis of their title along with possession which are the twin requirements for the grant of a mutation and not on the weaknesses of the case of the respondent Nos.7 to 9.

15. The above analysis shows that the petitioners can claim rights to have their names mutated in Dag No.285 of Patta No.91 of village Kacharigaon, Mouza-Duma, Revenue Circle-Gossaigaon in the district of Kokrajhar, subject to the petitioners are able to show

their title as well as possession which are requisites for grant of mutation.

16. The order dated 11.04.2005 by which the names of the predecessor-in-interest of the respondent Nos.7 to 9 were inserted by way of field mutation have attained finality before Revenue Courts in view of the decision of the learned Assam Board of Revenue in Appeal No.73RA(KR)/2009.

17. It may not be out of place to mention that the order of the learned Assam Board of Revenue dated 21.10.2024 in 73RA(KR)/2009 categorically observes that the field mutation order is in respect to Dag No.285 of Patta No.59 whereas the claim of the petitioners were in respect to Dag No.285 of Patta No.91.

18. This Court further finds it relevant to observe that mutation of the land has to be applied before the Competent Authority and in the instant case before the Circle Office, Gossaigaon. The petitioners would therefore have the liberty to do so by following the procedure mandated under law.

19. The application filed before the District Commissioner dated 20.12.2024 is totally misconceived in as much as by the said application the petitioners were trying to again agitate a point which stood settled by the order of the learned Assam Board of Revenue dated 21.10.2024 in 73 RA(KR)/2009. Under such circumstances, no writ can be issued based on the representation

dated 20.12.2024 submitted by the petitioners.

20. With the above observations, the writ petition stands disposed off.

21. Before parting with the records, this Court observes that the present instant judgment shall not preclude or prejudice the petitioners to file a civil suit seeking declaration of their right, title and interest and other consequential relief in respect to the land covered by Dag No.285 of Patta No.91, if so advised.

JUDGE