

GAHC010216482024



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

Case No. : PIL/68/2024

MOHAN CHANDRA MALAKAR AND ANR
SON OF LATE RISHAB CHANDRA MALAKAR,
RESIDENT OF VILLAGE- NO. 1 HAJO,
P.O. AND P.S.- HAJO,
DISTRICT- KAMRUP, ASSAM.

2: TILAK CHANDRA DAS
SON OF LATE UMESH DAS
RESIDENT OF VILLAGE- NO. 1 HAJO
P.O. AND P.S.- HAJO
DISTRICT- KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
ASSAM SACHIVALAYA, GUWAHATI-6.

2:THE DISTRICT AND SESSION JUDGE
KAMRUP(M)
ASSAM
GUWAHATI- 781001.

3:DISTRICT COMMISSIONER
KAMRUP
ASSAM
AMINGAON
GUWAHATI- 781031.

4:CIRCLE OFFICER
HAJO REVENUE CIRCLE

DISTRICT- KAMRUP
ASSAM
PIN -781102.

5:SIBA PRASAD SARMA
DOLOI OF SHREE SHREE HAYAGRIVA MADHAB MANDIR TEMPLE
MANAGING COMMITTEE
HAJO

DISTRICT- KAMRUP
ASSAM
PIN- 781102.
RESIDING AT- HARABALA PATH (OPPOSITE BORA SERVICE)

ULUBARI
GUWAHATI-3.

6:PRESIDENT
PANCHATIRTHA BARDEWRI SAMAJ
HAJO
DISTRICT- KAMRUP
ASSAM
PIN- 781102

For petitioner/appellant(s) : Mr. M. K. Choudhury, Sr. Advocate
Ms. P. Sarma, Advocate

For respondent(s) : Mr. D. K. Sarmah, Addl. Sr. GA, Assam
Mr. H.K. Das, SC, GHC
Ms. N. Bordoloi, SC, Revenue

– **BEFORE** –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

28.07.2025

(Ashutosh Kumar, CJ)

We have heard Mr. M. K. Chodhury, learned Senior Counsel for the petitioners, who are public spirited persons, and Mr. D.K. Sarmah, learned Additional Senior Government Advocate, Assam.

The petitioners are aggrieved by the mismanagement, negligence and

misuse of the resources by the Managing Committee of Hayagriva Madhab Temple, Hajo.

Earlier, a petition was filed before this Court in public interest by "Nava Prerna", a socio-cultural organization, Hajo, seeking proper maintenance of the temple and also highlighting that with the promulgation of the Assam State Acquisition of Lands belonging to Religious or Charitable Institutions of Public Nature Act, 1959 (hereinafter referred as "Act of 1959") and its amendment in the year 1987 incorporating Section 25A, mandating constitution of managing committee for proper management of the annuities and verification of proper maintenance of the religious institutions, managing committee of the temple ought to have constituted and should have started functioning.

It appears that in the PIL referred to above, Nava Prerna was directed to approach the Deputy Commissioner, Kamrup (Rural), Amingaon, pursuant to which a petition was filed before the Deputy Commissioner. However, after taking note of the grievance of Nava Prerna, the Deputy Commissioner did not accede to its prayer for the reason of there being a decree of Civil Court by which a special scheme had been made for the management of the temple in question.

The present petitioners, though not at all associated with Nava Prerna, have, however, filed this PIL petition challenging the said order of the Deputy Commissioner dated 25.03.2014. It appears to have erroneously impugned in the present petition, or it would no longer remain a PIL.

Nonetheless, considering the fact that this petition was entertained earlier and it relates to management of a religious institution/temple of great public importance, we deem it appropriate not to advert to the afore-noted

technicalities in entertaining this petition.

The prayer of the petitioners, otherwise, in public interest, is that with the promulgation of the Act of 1959 and there being a special provision under it (Section 25A) for constitution of committee for management of the annuities and all other affairs of the temple, any decree passed by a Civil Court in that regard would have to give way to the provisions of the enactment, which is of a later origin.

Nonetheless, we would require an affidavit from the respondent/State to apprise us whether the land is owned by the temple in question, or has been allotted to it by the government under any scheme, or the temple has been allowed to retain 37 Acres of land, which originally existed and owned by the temple and whether the annuities referred to in the petition are the annuities generated out of the land appurtenant to the temple, or is referable to the annuities given by the government. If the annuities are allotted by the government then, perhaps, there would be no doubt about the application of the Act of 1959 and the obligation of the respondents to constitute a committee under Section 25A of the Act of 1959 for management of the affairs of the temple as also the annuities of the temple.

Let the affidavit clarify all such aspects and be filed positively on or before the next date.

Re-notify on 22.08.2025.

JUDGE

CHIEF JUSTICE

Comparing Assistant