

GAHC010260682024



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

Case No. : WP(C)/6628/2024

JYOTI KALITA BORAH
WIFE OF LATE SUBAL BORAH, RESIDENT OF VILLAGE- DHING, ATHGAON
(UJANIKHAUDA), P.O. AND P.S. DHING DISTRICT- NAGAON, ASSAM, PIN
CODE- 782123

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
HOME DEPARTMENT, DISPUR, GUWAHATI- 781006

2:THE COMMANDANT
ASSAM SPECIAL RESERVED FORCE BN II
GOVERNMENT OF ASSAM
KARAGAON
DISTRICT- KARBI ANGLONG
ASSAM
PIN- 782480

3:THE DIRECTOR
PENSION AND PUBLIC GRIEVANCE
ASSAM
DISPUR
GUWAHATI
PIN CODE- 781006

4:SMT. GUNESWARI BORAH
MOTHER OF LATE SUBAL BORAH
VILLAGE- DHING ATHGAON
P.O. AND P.S. DHING
DISTRICT- NAGAON
ASSAM

PIN CODE- 782123

5:SMT LIPIKA BORAH
DAUGHTER OF LATE SUBAL BORAH
VILLAGE- DHING ATHGAON
P.O. AND P.S. DHING
DISTRICT- NAGAON
ASSAM
PIN CODE- 782123

6:SMT. DIPSHIKHA BORAH
DAUGHTER OF LATE SUBAL BORAH
VILLAGE- DHING ATHGAON
P.O. AND P.S. DHING
DISTRICT- NAGAON
ASSAM
PIN CODE- 78212

Advocate for the Petitioner : MR. U K GOSWAMI, MS. J DEKA,MS. A TALUKDAR

Advocate for the Respondent : GA, ASSAM,

BEFORE
JOINT REGISTRAR (JUDL.) MR. CHINMOY BARUAH

ORDER

Date : 07.04.2025

Case taken up before the Lawazima Court.

Learned counsel Ms. J. Deka appears on behalf of the petitioner. Heard.

Perused the records.

Perusal of the recent office note dated 05.04.2025 reveals that notice was issued to the respondent Nos. 4, 5 & 6 by way of registered post with A/D on 28.01.2025.

Now, on a further perusal of the said office note dated 05.04.2025 reveals the following:—

Respondent Nos. 4 & 6:— In this regard, it appears that the A/D cards of said respondents (*i.e. respondent Nos. 4 & 6*) have been received by the concerned section. However, on a perusal of the said A/D cards reveals that the A/D cards bear signature of a

person other than the addressees. But, from the above mentioned A/D cards, it cannot be ascertained how the recipient is related to the said respondents.

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 cards and the office copy of the registered notice that the registered notice was properly addressed to the respondent Nos. 4 & 6. Thus, **in the present case, even though the A/D cards were signed by a person other than the addressees, the notice will be presumed to be served on the said respondents (respondent Nos. 4 & 6).**

R5:— 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.

However, the postal track consignment report regarding the aforesaid notice issued to the respondent No. 5 has been generated from the Indian Post website, which reflects that the notice in respect of the said respondents have been delivered to the addressee on 01.02.2025. As such, it may be said that **service in respect of the respondent No. 5 has been completed.**

In view of the above, the matter may be placed before the Hon'ble Court.

Joint Registrar (Judicial)

Comparing Assistant