

GAHC010285022023



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

Case No. : WP(C)/7461/2023

TIKENDRA NATH CHAMUAH AND 2 ORS
S/O KARUNA KANTA CHAMUAH, R/O SARAIGHAT, P.O.-DUMUNICHOWKI,
P.S.-BAIHATA CHARIALI, DIST- KAMRUP, ASSAM-781121

2: MUNINDRA NATH CHAMUAH
S/O KARUNA KANTA CHAMUAH
R/O SARAIGHAT
P.O.-DUMUNICHOWKI
P.S.-BAIHATA CHARIALI
DIST- KAMRUP
ASSAM-781121

3: DHIRAJ CHAMUAH
S/O KARUNA KANTA CHAMUAH
R/O SARAIGHAT
P.O.-DUMUNICHOWKI
P.S.-BAIHATA CHARIALI
DIST- KAMRUP
ASSAM-78112

VERSUS

THE STATE OF ASSAM AND 29 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, REVENUE
AND DISASTER MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-6

2: THE DISTRICT COMMISSIONER
KAMRUP
ASSAM
PIN-781031

3: THE CIRCLE OFFICER
KAMALPUR REVENUE CIRCLE
DIST-KAMRUP

ASSAM-781101

4:SUREN NATH
S/O BATHARAM
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

5:KANDURAM NATH
S/O JAGAT
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

6:BHABESH NATH
S/O BUDDHIRAM
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

7:GANESH NATH
S/O BUDDHIRAM
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

8:UMESH NATH
S/O RATIA
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

9:KAMINI NATH
S/O NABIN NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP

ASSAM-781380

10:KAMINI NATH
S/O NABIN NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

11:BHUOEN NATH
S/O NABIN NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

12:JITEN NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

13:BILAI PRIYA NATH
S/O KRITI NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

14:KALICHARAN NATH
S/O KIRTI NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

15:JOGEN NATH
S/O KIRTI NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

16:KHITESHSHWAR NATH
S/O KIRTI NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

17:JAYANTA NATH
S/O KIRTI NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

18:GAUTAM CHANDRA DEKA
S/O RAMESH NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

19:AJIT CHANDRA NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

20:DIGANTA DAS
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

21:BIPUL NATH
S/O RAMCHARAN
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

22:MALOTI NATH

S/O RAMCHARAN
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

23:CHAKRADHAR NATH
S/O RAMCHARAN
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

24:SUROTH CHANDRA NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

25:BHABESH NATH
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

26:GANESH NATH
S/O BUDDHI
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

27:NAGESHWAR NATH
S/O BUDDHI
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

28:MRINAL KUMAR DAS
S/O BUDDHI
VILL-DOLMA

KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

29:BULU BARUAH
S/O RATHESHWAR
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-781380

30:SMT PINKU DEKA
W/O SRI BIPUL DEKA
VILL-DOLMA
KAMALPUR
P.O.-BAIHATA
DIST-KAMRUP
ASSAM-78138

Advocate for the Petitioner : MR S M ABDULLAH P, MD R ISLAM,MS F HUSSAIN,MR. M DEKA,MS B KOUSHIK,MD S HOQUE

Advocate for the Respondent : GA, ASSAM, MS N BARUAH,MR. D SARMA,MR P DAS

BEFORE
JOINT REGISTRAR (JUDL.) MR. CHINMOY BARUAH

ORDER

Date : 22.08.2024

Case taken up before the Lawazima Court.

None appears on behalf of the petitioners.

Perused the records.

On a perusal of the office note dated 21.08.2024 reveals that notice was issued to the respondent Nos. 4 to 30 by registered post with A/D on 25.01.2024.

However, in the meantime, it appears that **the learned counsels have entered appearance on behalf of the respondent Nos. 8, 9, 11, 12, 18 & 30 by filing**

Vakalatnama. As such, **service in respect of the respondent Nos. 8, 9, 11, 12, 18 & 30 has been completed.**

Further, in respect of the respondent Nos. 4, 5, 6, 7, 10, 13, 14, 15, 16, 17, 19, 20, 22, 25, 26, 27 & 29, it appears that the A/D cards have been received back. Next, on a perusal of the said A/D cards reveals the following:—

R4:— The A/D card bears the full signature of a person namely, “Mitali Nath”.

R5 & R10:— The A/D cards bear the signature (*in vernacular language*) of a person namely, “Bhupen”.

R6, R7, R25 & R36:— The A/D cards bear the full signature of a person namely, “Pramod Nath”.

R13, R14 & R15:— The A/D cards bear an illegible signature. As such, it can not be said whether the notice has been received by themselves or by any other person on their behalf.

R16:— The A/D card bears the full signature of a person namely, “Sharmila Nath”.

R17:— The A/D card bears the full signature of a person namely, “Juri Talukdar”.

R19, R20 & R22:— The A/D cards bear the full signature (*in vernacular language*) of respondent No. 22, i.e., “Malati Nath”.

R27:— The A/D card bears the full signature (*in vernacular language*) of a person namely, “Lalita Nath”.

R29:— The A/D card bears the full signature of a person namely, “Songsamoni Nath”.

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. 5, 6, 7, 10, 13, 14, 15, 16, 17, 19, 20, 25, 26, 27 & 29. Thus, **in the**

present case, even though the A/D cards were signed by persons other than the addressees, the notice will be presumed to be served on the said respondents (respondent Nos. 5, 6, 7, 10, 13, 14, 15, 16, 17, 19, 20, 25, 26, 27 & 29). Besides the aforesaid, service in respect of the respondent Nos. 4 & 22 has been also completed, as the A/D cards of the said respondents has been signed by the respondent themselves.

Further, in respect of the respondent No. 28, it seems that the notice has been received un-served with the postal remark "**Not found Return to sender**".

Furthermore, it appears that no A/D cards or un-served notices have been received back in respect of the respondent Nos. 21, 23 & 24. Additionally, the postal track consignment details are also not available in respect of the respondents mentioned above.

In view of the above, the petitioners are directed to take fresh steps for service of notice upon the respondent Nos. 21, 23, 24 & 28 by registered post with A/D as well as by usual Court process through the office of the learned Civil Judge (Junior Division), Kamrup, within 7 (seven) days from the date of this order.

As mention has been allowed for listing of the instant matter on 27.08.2024, the matter is laid before the Hon'ble Court.

Joint Registrar (Judicial)

Comparing Assistant