

GAHC010005142022



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

Case No. : WP(C)/232/2022

RINA PHUKON
W.O. LATE ARUN PHUKON, R/O.
TENPUR, MISSIONPATTY, WARD NO. 3,
P.O. AND P.S.
GOLAGHAT, DIST
GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 14 ORS.
REPRESENTED
BY THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM, DEPARTMENT
OF SOCIAL WELFARE, DISPUR, GUWAHATI
6

2:THE DEPUTY COMMISSIONER
GOLAGHAT
DIST GOLAGHAT

ASSAM
PIN 785621.

3:THE SUPDT. OF POLICE
GOLAGHAT

DIST GOLAGHAT
ASSAM.

4:SMT. SULAKSHANA BARPATRA GOHAIN

EXECUTIVE MAGISTRATE
CUM IN CHARGE
WOMEN CELL

GOLAGHAT

GOLAGHAT
DIST
ASSAM
PIN 785621

5:THE DISTRICT SOCIAL WELFARE OFFICER

GOLAGHAT
PIN 785621.

6:SMT. MONALISA BORA PHUKON
AGED ABOUT 38 YEARS
W/O. LATE
BEDANTA KUMAR PHUKAN

RESIDENT OF TENPUR
MISSION
PATTY
WARD NO.3
P.O. AND P.S
GOLAGHAT
DISTRICT GOLAGHAT

785621.

7:SMT. DIPA PHUKON @ DEEPA PHUKON

D/O. LATE NARENDRA
NATH PHUKON
PRESENTLY RESIDENT
OF TENPUR
MISSION PATTY
WARD
NO. 3
GOLAGHAR
DIST GOLAGHAT

ASSAM
PIN 785621.

8:SRI AJIT GOGOI

S/O. SRI JOGESWAR
GOGOI
PERMANENT RESIDENT OF
MATHADANG GAON
PO
PULIKAITONI
MOUZA GHILADHARI

PO GHILADHARI
PS GHILADHARI

DIST GOLAGHAT
ASSAM
PIN
785602.

9:THE SECRETARY
DISTRICT LEGAL
SERVICE AUTHORITY
GOLAGHAT.

10:THE GOVERNMENT PLEADER
GOLAGHAT
DIST GOLAGHAT
PIN
785621.

11:DR. SUNITA EKKA
SKKC
HOSPITAL
GOLAGHAT
DIST
GOLAGHAT
PIN 785621.

12:THE PRESIDENT
JILA PARISHAD

GOLAGHAT
DIST GOLAGHAT
PIN
785621.

13:THE PRESIDENT
GOLAGHAT JILA
MAHILA SAMITTEE
DIST GOLAGHAT

PIN 785621.

14:THE PRESIDENT

GOLAGHAT
MAHILA GOT NGO

NIRMAN
BENGENAKHOWA
GOLAGHAT
DIST
GOLAGHAT
PIN 785621.

15:SMTI. JAYASHREE GOGOI JAISWAL
W/O SRI DURGA JAISWAL

GOLAGHAT
ADVOCATE
DISTRICT BAR
ASSOCIATION
GPOLAGHAT
ASSAM

PIN 785621

Advocate for the Petitioner : MR R DHAR, MR. N N UPADHAYA,MR B C MUCHAHARY

Advocate for the Respondent : GA, ASSAM, MR. M A I HUSSAIN (R-6),MR. A R BHUYAN (R-6),MR T GOGOI (r-15),MR. A BORUA (r-15),MS. P BHATTACHARYA (r-15)

BEFORE

THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY
Order

05.09.2024

1. Heard Mr. NN Upadhyaya, learned counsel for the petitioner. Also heard Ms. S Baruah, learned counsel for the respondent Nos. 1,2,3 and 5 and Ms. P Bhattacharya, learned counsel

for the respondent No. 15.

2. The present writ petition was preferred by the petitioner being aggrieved by an order dated 03.01.2022 issued by In-charge, Women Cell, District Magistrate Officer, Golaghat determining the shares of rent of the petitioner, respondent No. 6 and one Pallab Kishore Phukan, who is not a party in the present case. Said Pallab Kishore Phukan is the youngest son of the petitioner whereas the respondent No. 6 is the daughter-in-law of the petitioner, who married to her elder son, namely, Bedenta Kumar Phukan, who expired on 21.07.2021 and the petitioner's husband Arun Phukan expired on 06.08.2021.
3. The impugned order reflects that a hearing was taken by the authority on the basis of an application filed by the respondent No. 6 i.e. Manalisha Bora Phukan, inter alia, alleging that she is suffering from serious illness for which she needs regular treatment and medication and she requires money and on the basis of such complaint, the share of monthly rents collected from the tenants from the un-divided property belonging to the petitioner and respondents were decided.
4. No instruction has been received by the learned Government Advocate, however, Ms. S Baruah, learned Government Advocate submits that she could not find out any authority under law whereby Woman Cell can act in a manner distributing the share of rental income amongst the claimants.
5. This court is also of the opinion that the Women Cell shall have no authority and jurisdiction under law to act and decide in the manner the impugned decision has been taken.
6. If any party is aggrieved for non maintenance or claim of share of property, the office of the Deputy Commissioner or to say Women Cell under Deputy Commissioner shall have no jurisdictional and authority under law inasmuch as such dispute can be settled in the court of law as provided under different statute like DV Act, 2012, T.P. Act, 1882 etc . It is needless to say that the Deputy Commissioner shall have also no jurisdiction to entertain any complaint alleging misconduct and such allegation can also be determined by the statutory authority like Bar Council of India and not by the Deputy Commissioner or the Women Cell under it.
7. In view of the aforesaid, the impugned order dated 03.01.2022 passed by the Women Cell, District Magistrate Office, Golaghat vide No. GP.33/2012/8172 is set aside and quashed.

8. Writ petition stands disposed of.

JUDGE

Comparing Assistant