

GAHC010038582024



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

Case No. : RSA/41/2024

LEGAL HEIRS OF DECEASED KUNDANMAL BAID, SMTI. ASHA DEVI AND
ORS

W/O LATE KUNDANMAL BAID,
RESIDENT OF RAJA WOODMUNT STREET, KOLKATA WEST BENGAL

2: SRI NOWRATAN BAID
S/O LATE KUNDANMAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

3: SRI PUKHRAJ BAID
S/O LATE KUNDANMAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

4: SMTI RANJANA DEVI KOTHARI
D/O LATE KUNDANMAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

5: LEGAL HEIRS OF LATE HIRALAL BAID
SMTI ASHALOTA BAID
W/O LATE HIRALAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

6: SRI RAJENDRA KUMAR BAID
S/O LATE HIRALAL BAID

RESIDENT OF RAJA WOODMUNT STREET

KOLKATA WEST BENGAL

7: SRI DEVENDRA KUMAR BAID
S/O LATE HIRALAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

8: SRI FULCHAND BAID

S/O LATE SHOHANLAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

9: SRI NIRMAL KUMAR BAID
S/O LATE SHOHANLAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

10: PRAKASH CHAND BAID
S/O LATE SHOHANLAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

11: SURESH KUMAR BAID
S/O LATE SHOHANLAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

12: SRI BIMAL KUMAR BAID
S/O LATE SHOHANLAL BAID

RESIDENT OF RAJA WOODMUNT STREET
KOLKATA WEST BENGAL

VERSUS

THE COLLECTOR CUM DC DHUBRI AND ORS
DHUBRI

2: THE ASSISTANT SETTLEMENT OFFICER

DHUBRI

3:SRI SUSHIL KUMAR SHARMA
S/O LATE BHAGABAN SHARMA

RESIDENT OF WARDNO. 3
CHARMAIN ROAD
NEAR KASHAIPATTY

DHUBRI TOWN
PO AND DIST DHUBRI
ASSAM 783301

4:SMTI SUMAN DEVI SHARMA
W/O SUSHIL KUMAR SHARMA

RESIDENT OF WARDNO. 3
CHARMAIN ROAD
NEAR KASHAIPATTY

DHUBRI TOWN
PO AND DIST DHUBRI
ASSAM 783301

5:LEGAL HEIRS OF LATE DINABANDHU DAS
SMTI NILA DAS
W/O LATE DINABANDHU DAS

RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

6:SMTI KAMINI DAS
W/O LATE DINABANDHU DAS

RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

7:SRI BIRU DAS
S/O LATE DINABANDHU DAS

RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

8:BITTU DAS

S/O LATE DINABANDHU DAS

RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

9:RAJU DAS
S/O LATE DINABANDHU DAS

RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

10:SRI BAPPI DAS
S/O LATE DINABANDHU DAS

RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

11:SOURAJ DAS
S/O LATE DINABANDHU DAS

RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

12:SRI ASHA DAS
D/O LATE DINABANDHU DAS

W/O LATE MANIK DAS
RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

13:SMTI HEMA DAS
D/O LATE DINABANDHU DAS
W/O BAGA BARAI

RESIDENT OF WARD NO. 11
MISTRI PARA
DHUBRI TOWN
PO AND PS DHUBRI

ASSAM 783301

14:SMTI RAMA KALITA
D/O LATE DINABANDHU DAS

W/O SRI GAUTAM KALITA
RESIDENT OF WARD NO. 3 BALURCHAR (PANCHUGHAT) PO AND DIST
DHUBRI
ASSAM 783301

15:SRI SOMNATH DAS
S/O LATE HARIPADA DAS
RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

16:SRI NARAYAN DAS

S/O LATE HARIPADA DAS
RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 783301

17:DIPAK GAUR
S/O LATE HIRALAL GAUR
RESIDENT OF WARD NO. 11
BAHADURTARI
PO AND DIST DHUBRI
ASSAM 78330

Advocate for the Petitioner : MR. O P BHATI

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

07.03.2024

Mr. OP Bhati, the learned counsel appearing on behalf of the appellants submits that due to wrong legal advice, the appellants who were the plaintiffs have instituted the suit being Title Suit No.420/2010 and thereupon the proceedings which were continued leading to the filing of the instant appeal have been all under wrong legal advice. He submitted that this is a pure and simple case wherein the question arises as to the entitlement of the compensation between the plaintiffs *vis a vis*, the defendant Nos.3 to 10 for which the plaintiffs ought to have been advised for filing an application under Section 18 of the Land Acquisition Act 1894 (for short, the Act of 1894) for seeking a reference so that the Collector could have made the reference to the learned District Judge within whose jurisdiction the said land has been acquired.

2. He further submitted that a perusal of the entire proceedings would show that the appellants on account of the wrong legal advice have been pursuing bonafidely and diligently the entire proceedings for which the period during which the instant suit has been filed till date ought to be excluded while computing the limitation for filing an application under Section 18 of the Act of 1894. He further submits that he may be permitted to withdraw the instant appeal and the plaintiffs be permitted to pursue the remedies under Section 18 of the Act of 1894.

3. This Court has put a pointed query upon Mr. OP Bhati, the learned counsel for the appellants as to what would be the objection to the award under Section 18 to be filed. The learned counsel submits that the objection to the award shall be limited only as regards the person to whom the award would be payable and not in respect of any other objections.

4. This Court has also put a query upon Mr. T.R Gogoi, the learned counsel appearing on behalf of respondent Nos.1 and 2 as to whether the awarded amount has been disbursed or not. The learned counsel submits that as per his instruction(s), the said amount has not yet been disbursed.

5. Taking into account the above, this Court closes the instant appeal proceedings and grants the liberty to the plaintiffs who are the appellants herein to file the application under Section 18 of the Act of 1894 within a period of 42 days from the day of the instant order. The said objection under Section 18 of the Act of 1894 shall be only limited to ***the persons to whom the awarded amount is payable and nothing more.***

6. This Court has also taken note of that the orders passed by the learned Trial court as well as the 1st appellate court wherein on account of jurisdiction, the suit as well as the appeal have been dismissed. It is also seen that the appellants herein have been pursuing the remedies on legal advice diligently and bonafidely. Under such circumstances, this Court, therefore, is of the opinion that the appellants herein would be entitled to the benefit under Section 14 of the Limitation Act, 1963.

7. With the above observations and directions, the regular second appeal stands disposed of.

JUDGE

Comparing Assistant