
(2026) 02 GAU CK 1611
In the Gauhati High Court
Case No : WPC Of 174 Of 2026

Sumar Ali And Othrs

APPELLANT

Vs

State Of Assam And Othrs

RESPONDENT

Date of Decision : 09-02-2026

Acts Referred:

Citation : (2026) 02 GAU CK 1611

Hon'ble Judges : Devashis Baruah, J

Bench : Single Bench

Advocate : S.S. Ahmed, S.S. Roy, G. Hazarika

Final Decision : Disposed Of

Judgement

Devashis Baruah, J

1. Heard Mr. S.S. Ahmed, the learned counsel appearing on behalf of the petitioners. Mr. S.S. Roy, the learned Government Advocate appears on behalf of the respondent Nos. 2 to 4 and Ms. G. Hazarika, the learned Standing Counsel appears on behalf of the respondent No. 1.

2. The grievance of the petitioners herein is that the petitioners had submitted an application seeking mutation pursuant to the judgment and decree passed by the learned Court of the Civil Judge, Dhubri in Title Appeal No. 37/2011, wherein the right, title, and interest of the predecessor-in-interest of the petitioners were declared in respect to the land in question.

3. It is seen that this Court had sought for instructions vide the order dated 09.01.2026 and Mr. S.S. Roy, the learned Government Advocate appearing on behalf of the respondent Nos. 2, 3, and 4 has placed before this Court an instruction issued by the Circle Officer, Chapar Revenue Circle wherein it is mentioned that the petitioners' application seeking mutation is not available on the RTPS portal of the Circle Office, which may be due to non-payment of the requisite fee or any uploading issue from the petitioners' side.

4. Taking into account the said instruction placed before this Court, the instant application is taken up for disposal at the Motion stage itself.

5. The materials on record show that a suit was filed by one Md. Sayed Ali against one Md. Hasen Ali & Others, which was registered and numbered as Title Suit No. 213/2007. In the said suit, Md. Hasen Ali along with the other defendant filed a counter-claim claiming right, title, and interest in respect to the land in question. Vide the judgment and decree dated 28.02.2011, both the suit and the counter-claim were dismissed.

6. Md. Hasen Ali along with another preferred an Appeal against the judgment and decree dated 28.02.2011 passed in Title Suit No. 213/2007 which was registered and numbered as Title Appeal No. 37/2011. The said Appeal was allowed vide the judgment and decree dated 06.08.2015 passed by the learned Court of the Civil Judge, Dhubri thereby declaring the right, title and interest as well as possession in respect to the suit land in favour of Md. Hasen Ali & Another. It is further seen that pursuant to the said judgment and decree dated 06.08.2015 passed in Title Appeal No. 37/2011, an execution proceeding was initiated which was registered and numbered as Title Execution Case No. 04/2019. The decree was accordingly satisfied upon handing over possession of the decretal land in favour of the Appellants of Title Appeal No. 37/2011.

7. The petitioners herein are the legal representatives of Md. Hasen Ali and Sri Abu Shama Sk., both of whom were Appellants in Title Appeal No. 37/2011. This aspect is apparent from the Next of Kin Certificate issued by the Circle Officer, Dhubri dated 19.02.2025 and 11.08.2025. The case of the petitioners herein is that pursuant to the judgment and decree dated 06.08.2015, an application was filed seeking mutation of the land in question and as the said application was not considered, the petitioners have approached this Court.

8. It is pertinent to take note of that the petitioners have not enclosed the mutation application rather have only enclosed the application acknowledgement which is dated 20.02.2025.

9. At this stage, it is also pertinent to take note of that while the Next of Kin Certificate of Sri Abu Sama Sheikh is dated 19.02.2025, but the Next of Kin Certificate of Md. Hasen Ali is dated 11.08.2025, which is much after the date of the application acknowledgement. It is also very pertinent to note that a perusal of the said application acknowledgement dated 20.02.2025 reveals that the application was for mutation after deed registration, which could not have been the basis for granting mutation, inasmuch as the claim of the petitioners is based upon the judgment and decree passed by the learned Court of the Civil Judge, Dhubri, in Title Appeal No. 37/2011 and the subsequent handing over of the possession in pursuance to the Title Execution case No. 04/2019.

10. Considering the above, this Court finds that the instructions placed by Mr. S.S. Roy, the learned Government Advocate appearing on behalf of the respondent Nos. 2 to 4, appears to be correct. Under such circumstances, this

Court is not in a position to direct the respondents to consider the application of the petitioners seeking mutation unless and until a proper application is filed along with the requisite documents.

11. Accordingly, this Court is not inclined to entertain the instant writ petition, for which, the same stands dismissed.

12. Before parting with the record, this Court, however, observes that dismissal of the instant writ petition shall not preclude the petitioners from submitting a fresh application as per the procedure applicable before the respondent No. 4 seeking mutation on the basis of the judgment and decree dated 06.08.2015 passed in Title Appeal No. 37/2011, and further the possession being handed over to the petitioners on the basis of the Title Execution proceedings being Title Execution Case No. 04/2019.

13. It is observed that if such an application is preferred by the petitioners providing the necessary details and documents, the same shall be considered by the respondent No. 4 in accordance with the extant provisions of law and dispose of the same within a period of 3 (three) months from the date of submission of such application along

with a certified copy of the present judgment.

14. It is further observed that if in the circumstance, further time is required on the ground that the mutation proceedings are contested, the same shall be expeditiously disposed of by following the mandate of law.