



GAHC010004502011

Page No.# 1/22



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

**Case No. : WP(C)/1595/2011**

ECO and AGRO MOVERS PRIVATE LIMITED  
REGD. OFFICE AT SUNDARPUR BYE LANE NO.1, RGB ROAD, GHY-5, REP.  
BY ITS CHAIRMAN CUM MANAGING DIRECTOR - MANOHAR  
CHOWDHURY.

VERSUS

THE STATE OF ASSAM AND 19 ORS  
REP. BY ITS SECY. TO THE DEPTT. OF REVENUE, DISPUR, GHY-6.

2:THE CHAIRMAN  
ASSAM BOARD OF REVENUE  
PANBAZAR  
GHY-1

3:DY. COMMISSIONER

KAMRUP R  
GOVT. OF ASSAM  
AMINGAON  
GHY

4:THE AUCTION OFFICER KHA

RANGIA  
RANGIA SUB-DIVISIONAL OFFICE  
GOVT. OF ASSAM  
RANGIA  
KAMRUP

5:SHEMIMA HAZARIKA



W/O SIRAZUL HUSSAIN HAZARIKA  
R/O I.M.A.HAZARIKA ROAD  
REHABARI  
GHY-8

6:SAHARUDDIN AHMED  
S/O. LATE FAZIR ALI.

7:HARAKANTA DEKA  
S/O. LATE TARUN DEKA.

8:TARUN BARUAH  
S/O. LATE KHARGESWAR BARUAH.

9:SATISH DEKA  
S/O. LATE NABIN DEKA.

10:ALIMUDDIN AHMED  
S/O. LATE MAJIB ALI.

11:HARI CHARAN DAS  
S/O. LATE DHARYYA DAS.

12:SAFIQUL ALI  
S/O. LATE SAFAT ALI.

13:IMRAN ALI  
S/O. LATE SAHAR ALI.

14:KAMAL DEKA  
S/O. LATE GAJEN DEKA.

15:MAMNUR ALI  
S/O. LATE MANIR ALI.

16:NAGENDRA NATH DEKA  
S/O. LATE JOGEN DEKA.

RESPONDENT NOS. 6 TO 16 ARE RESIDENTS OF VILLAGE RADHAKUCHI  
MOUZA KARARA  
P.S. BAIHATA CHARIALI  
P.O. KARARA  
PIN-781381  
REVENUE CIRCLE OFFICE KAMALPUR  
DIST. KAMRUP (RURAL)  
ASSAM.

17:SHAHNAZ RASUL  
D/O LATE IFTEKHAR RASUL



R/O DANISH ROAD  
LAKHTOKIA  
GUWAHATI 781001 IN THE DIST  
OF KAMRUP (M)  
ASSAM.

18:EVAN ZIAUR RASUL  
S/O LATE IFTEKHAR RASUL  
R/O DANISH ROAD  
LAKHTOKIA  
GUWAHATI 781001 IN THE DIST OF KAMRUP (M)  
ASSAM

19:NAFISA RASUL  
D/O LATE IFTEKHAR RASUL  
R/O DANISH ROAD  
LAKHTOKIA  
GUWAHATI 781001 IN THE DIST OF KAMRUP (M)  
ASSAM.

20:ZOHEB RASUL  
S/O LATE IFTEKHAR RASUL  
R/O DANISH ROAD  
LAKHTOKIA  
GUWAHATI 781001 IN THE DIST OF KAMRUP (M)  
ASSA

For the Petitioner (s) : Mr. Satyen Sarma, Sr. Advocate.

For the Respondent (s) : Ms. S. Sarma, GA.

Mr. D.C. Chakraborty, Advocate.

Date of hearing & Judgment : **28.09.2023**

**BEFORE**

**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGMENT AND ORDER(ORAL)**

The instant writ petition has been filed by the Petitioner

challenging the judgment and order dated 23.12.2010 passed in Appeal Case No. 45 RA(K)/2009 by the learned Assam Board of Revenue.

2. A perusal of the pleadings as well as the records so produced before this Court reveals that one Ikram Rasul (since deceased) was the original pattadar of N.K. Patta No. 1 containing 279 bighas of land in village Radhakushi under Kahara Mouza in the District of Kamrup, Assam. After the death of Late Ikram Rasul the property was inherited by his legal heirs. However, his legal heirs failed to pay the land revenue to the tune of Rs.36,000/-. It is also apparent from the records that various notices were issued to the legal representatives of Late Ikram Rasul for payment of the land revenue. Be that as it may, as the legal representatives of Late Ikram Rasul failed to make payment, the proceedings under the Assam Land and Revenue Regulation, 1886 (for short 'the Regulation') was initiated for sale of the defaulting estate. The records reveal that a Notification was issued in pursuance to the provisions of Sub-Section (1) and Sub-Section (3) of Section 72 of the Regulations notifying all concerned that the various plots of lands measuring (1) 279 bighas 4 kathas 6 lechas of Patta No. N.K. 1 of Village- Radhakushi (the land in question) (2) 972 bighas 1 kathas 19 lechas of land comprise in Patta No. N.K. 11 of Bhoma and (3) land measuring 45 bighas 2 kathas 0 lechas of Patta No. N.K. 1 of village Nagaon totaling to 1297 bighas 3

kathas 5 lechas of Mouza Kahara of Revenue Circle Kamalpur in the District of Kamrup would be put to sale for the purpose of realizing the land revenue of the defaulting estate. It is however, relevant to mention that there was no date of auction sale mentioned in the said Notification except it was mentioned that the sale would be made after 1 (one) month of the publication in the State Gazette.

3. This Court further finds it noteworthy to mention that the said Notification was published on 29.03.2007 in the Assam Gazette extraordinary. At that this stage, it is relevant to take note of Section 72 of the Regulation which being relevant for the purpose of adjudication of the instant dispute is reproduced hereinunder :

### **Notice of Sale**

*72. (1) If the Deputy Commissioner proceeds to sell any property under Section 70, he shall prepare a statement in manner prescribed, specifying the property which will be sold, the time and place of sale, the revenue assessed on the property and any other particulars which he may think necessary.*

*(2) A list of all estates for which a statement has been prepared under sub-section (1) shall be published in manner prescribed, and the copy of the statement relating to every such estate shall be open to inspection by the public free of charge in manner prescribed.*

*(3) If the revenue of any estate for which a statement has been prepared under sub-section (1) exceeds five hundred rupees, a copy of the statement shall be published in the official Gazette.*

4. It reveals from Sub-Section (1) of Section 72 of the Regulation that if the Deputy Commissioner proceeds to sell any property under Section 70, he shall prepare a statement in the manner prescribed,

specifying the property which will be sold, **the time and place of sale**, the revenue assessed on the property and any other particulars which he may think necessary. In terms with Sub-Section (2) of Section 72 of the Regulation, a list of all estates for which a statement has been prepared under sub-section (1) shall be published in the manner prescribed and a copy of the statement relating to each such estate shall be opened to inspection by the public free of charge in the manner prescribed. Sub-Section (3) of Section 72 of the Regulation is rather relevant for the purpose of the instant dispute which stipulates that if the revenue of any estate for which a statement has been prepared under sub-section (1) exceeds five hundred rupees, a copy of the statement shall be published in the official Gazette.

5. Before proceeding further, it is therefore noteworthy to mention that though Sub-Section (1) of Section 72 of the Regulation mandates the mentioning of the time and the place of sale in the statement which shall be published in the official Gazette but strangely enough the Notification dated 29<sup>th</sup> of March, 2007 did not mention the time or the place, rather a vague statement was made in the said Notification that the defaulting estate shall be put to sale after 1(one) month of the publication in the said Gazette.

6. This Court further finds it relevant to take note of the Settlement

Rules framed under the Regulation and more particularly Rule 135 and 136. The said Rule 135 and 136 are reproduced hereinunder :-

**135. Sale Proclamation** :- *The statement and list of estates to be prepared under Section 72(1) and (2) of the Land and Revenue Regulation, in respect of property to be sold under Section 70, shall be prepared in the language of the district and may, if the Deputy Commissioner thinks fit, be recorded in a book prepared for this purpose, to be called the sale Statement Book. When published in the Gazette, the statement shall be published in the vernacular of the district and in English.*

**136. Publication of list of estates.**—*The list of estates referred to in the foregoing rule shall be published –*

*(a) in the Court of the Revenue Officer by whom it has been prepared;*

*(b) at the office of the Sub-Deputy Collector in whose circle the estate is situated ;*

*(c) at the office of the Tahsildar or house of the Mauzadar within whose tehsil or mauza defaulting estate lies ; and*

*(d) where Gaonburas are employed, on the signboard of the Gaonbura within whose charge the defaulting estate falls ;*

*(e) at the offices of the Gaon Panchayat and the Anchalik Panchayat.*

7. From a conjoint reading of the Rules 135 and 136 as quoted above, it would transpire that the statement and the list of estates to be prepared under Subsections (1) and (2) of Section 72 of the Regulation in respect to the property to be sold under Section 70 of the said Regulation shall be prepared in the language of the district and may, if the Deputy Commissioner thinks fit, be recorded in a book prepared for this purpose to be called the Sale Statement Book. It is also stipulated that when published in the Gazette, the statements shall be published in the vernacular of the district and in English

meaning thereby that the publication in the Gazette shall be in Assamese and in English.

8. Rule 136 relates to publication of the list of the estates. It stipulates the places where the list of the estates referred to in Rule 135 shall be published. Therefore, from a conjoint reading of Section 72 (3) of the Regulation read with Rules 135 and 136 of the Settlement Rules, it would be seen that in addition to the publication to be made in the official Gazette in Assamese and in English there is a further requirement to publish in the offices/courts as mentioned in Clause (a) to (e) of Rule 136 of the Settlement Rules.

9. At this stage, this Court finds it relevant to take note that the Gazette Notification dated 29.03.2007 so produced only shows that it was published in English only and not Assamese and the Gazette Notification does not stipulate the time and place of sale. Further to that, from a perusal of the records so produced by Ms. S. Sarma, the learned counsel representing the Deputy Commissioner, Kamrup, it reveals that apart from the said Gazette Notification dated 29.03.2007, there is no other Gazette Notification in Assamese as well as stipulating the time and place of sale.

10. This Court further finds it relevant to note another pertinent aspect which had come to light upon perusal of the records. Section 72 not only prescribes that the Deputy Commissioner shall prepare a





statement in the manner prescribed, specifying the property which would be sold, the time and place of sale, the revenue assessed on the property and any other particulars which the Deputy Commissioner may deem it necessary. The said statement in terms with Section 72(1) is required to be published in the official Gazette in terms with Section 72(3) of the Regulation. However, from the records, it is seen that on 12.01.2007, the Sub-Divisional Officer (Civil), Rangia had written to the Director, Printing & Stationery Govt. Press Assam to publish the statement of sale within 15 days positively to enable fixing the date of sale at the earliest. But from the records produced nothing is discernible that such list was published. Rather the Notification dated 29<sup>th</sup> of March, 2007 only notified the lands in question and further stating that it shall be put to sale to realize the land revenue of the defaulting estate after one month of the publication in the State Gazette. It was also mentioned that the details of the defaulting estate with pending revenue can be seen in the Office of the Sub-Divisional Officer (C), Rangia which on the face of it contravenes the requirement in terms with Section 72 of the Regulation.

11. This Court further finds it noteworthy to mention that from the records, it cannot be discerned as to when the date for auction sale was fixed. Though there is a hand written notice in the records issued by the SDO(Civil), Rangia dated 13.04.2007 thereby fixing 04.05.2007



at 10 AM at the Kamalpur Revenue Circle Office but the records are silent as to whether the said notice was at all published in the manner stipulated in the above quoted Rules. The records also do not indicate as to whether prior to the auction sale which was carried out on 04.05.2007, the Deputy Commissioner, Kamrup or the SDO(Civil), Rangia had taken into account that the notice was published. Therefore, it is clear that the notice which was published in the Official Gazette on 29.03.2007 was not in accordance with Section 72 of the Regulation and Rule 135 of the Settlement Rules. The hand written notice dated 13.04.2007 even assuming it was published, in the opinion of this Court cannot remedy the defect as on the face of it, the publication in the official Gazzette was not in accordance with Section 72 of the Regulation. This opinion of the Court is based on the well settled principle of law that when the statute mandates a thing to be done in a particular manner, the same has to be done in that manner or not at all.

12. Be that as it may, the records further reveals that on 04.05.2007 there were two bidders in respect to the said land which is the subject matter of dispute before this Court. The first bidder quoted Rs.2,20,000/- and 2,45,000/- for 279 bighas 4 kathas 6 lechas of land and the Petitioner quoted an amount of Rs.2,40,000/- and Rs.2,80,000/-. It further reveals from the records that as the Petitioner herein was the highest bidder, the auction sale was made in



favour of the Petitioner and in that regard the Sub-Divisional Officer (C), Rangia had executed a Deed No. 76/2008 thereby certifying that the Petitioner had purchased the estate at an amount of Rs.2,80,000/- w.e.f. 04.05.2007. The records reveals that thereafter the Respondent No. 5 herein who is one of the successor in interest of Late Ikram Rasul filed an Appeal being Case No. 45 RA(K)/2009 before the learned Board of Revenue thereby challenging the auction sale made on 4.5.2007.

13. The records further reveals that pursuant to the appeal being admitted, there were pleadings exchanged before the learned Board of Revenue. Vide the judgment and order dated 23.12.2010 (hereinafter referred to as impugned judgment), the learned Board of Revenue had set aside the auction sale made in favour of the Petitioner herein and further directed that the Auction Officer would take up the exercise afresh and start from the stage of his order dated 30.06.2006. Being aggrieved with the said order, the Petitioner is before this Court by way of the instant writ petition.

14. The records reveals that vide an order dated 28.03.2011, notice was issued by this Court and the impugned judgment and order dated 23.12.2010 passed by the learned Board of Revenue in Appeal being Case No. No.45RA(K)/2009 was directed not to give an effect to. This Court however finds at this stage to take note of an order passed by this Court on 12.05.2016, wherein this Court had opined that the

canceling of the auction sale by the learned Board of Revenue and the reasons so assigned were logical and as deserved. However, as on that date the Petitioner was not represented, the writ petition was dismissed for non-prosecution rather than on merits. The records further reveals that the instant writ petition was restored on 14.12.2016.

15. The Respondent No. 5 filed an affidavit-in-opposition on 18.04.2017 thereby supporting the impugned judgment passed by the learned Assam Board of Revenue.

16. It is further seen from the records that Respondent No. 6 to 16 were impleaded to the instant writ petition on the basis of an order dated 24.09.2018.

17. Before proceeding further, this Court finds it pertinent to deal with the status of the Respondent Nos. 6 to 16. The said Respondents claim that they are occupancy tenants over the land which had been put to auction sale and it is the case of the said Respondents that they are entitled to ownership rights as per the provisions of the Assam (Temporarily Settled Areas) Tenancy Act, 1971. It is the further case of the Respondent Nos. 6 to 16 that they had applied for the ownership rights but in view of the pendency of the instant proceedings such applications have been kept in abeyance. It is relevant to mention that the said Respondent Nos. 6 to 16 did not



approach the learned Assam Board of Revenue challenging the auction sale and the rights of the Respondent Nos. 6 to 16 are independent and distinct irrespective of who is the owner of the land in question.

18. The Respondent Nos. 17 to 20 have also been subsequently impleaded on 5<sup>th</sup> of February, 2020 and the basis of their claim is that they are also successor of interest of Late Ikram Rasul. The Respondent Nos. 17 to 20 had also filed an affidavit-in-opposition on 07.01.2022.

19. In the backdrop of the facts narrated above, let this Court therefore take into consideration the impugned judgment which have been assailed before this Court. From a perusal of the said judgment, it reveals that the learned Assam Board of Revenue took note of that in respect to the date so fixed for auction sale, the Circle Officer took no steps whatsoever to publish it widely. It was the observation of the learned Assam Board of Revenue that while carrying out the sale proper steps should be taken to ensure that the proper value of the land is received. It was observed that the purpose of sale was not only to recover the arrear dues but also give the remaining amount so received to the owner. It was observed that the manner of publication would also depend on the size of the property inasmuch as if the property is big, it is obvious that there would no local buyer and for



buyers to come from faraway places wide publicity is required to be given. It was the categorical finding of the learned Assam Board of Revenue that the Auction Officer fixed the sale 23 days away and gave no notice. The learned Assam Board of Revenue have also taken note of that the area of land to be auctioned was 280 bighas and the highest offer was a paltry Rs. 1,000/- per bigha and as such the Auction Officer should not have accepted this and ought to have fixed another date for auction. It was observed that there was no way that even the buyer i.e. the Petitioner herein could have known about the sale unless someone from the Office of the Circle Officer had informed. It is under such circumstances, the learned Assam Board of Revenue observed that the entire exercise carried out by the Office of the Deputy Commissioner, Kamrup and more particularly by the SDO(C), Rangia stinked of collusion. The learned Assam Board of Revenue further went on to observe that the auction sale was carried out in a farcical manner and the land was sold at a price which cannot be termed to be reasonable. Under such circumstances, vide the impugned judgment the sale made in favour of the Petitioner herein was set aside and the Auction Officer was directed to take up the exercise afresh starting from the stage of his order dated 30.08.2006. The learned Assam Board of Revenue further directed that the order shall be passed afresh in a legible manner and further proceedings should be carried out in a transparent and proper manner.

20. Now the question which arises for consideration before this Court is whether under Article 226 of the Constitution any interference with impugned judgment is required.

21. This Court at this stage finds it relevant to take note of a recent judgment of the Supreme Court in the case of **Central Council for Research in Ayurvedic Sciences and Another** Versus **Bikartan Das and Others** reported in **2023 SCC Online SC 996**. In the said judgment, the Supreme Court at paragraph Nos. 50, 51 and 52 observed that for issuance of a writ of certiorari under Article 226 of the Constitution, two cardinal principles are required to be followed. Taking it relevance to exercise of jurisdiction which this Court is being called upon to exercise, this Court reproduces the said paragraph Nos. 50, 51 and 52 of the judgment hereinbelow :-

*“50. Before we close this matter, we would like to observe something important in the aforesaid context: Two cardinal principles of law governing exercise of extraordinary jurisdiction under Article 226 of the Constitution more particularly when it comes to issue of writ of certiorari.*

*51. The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.*

*52. The second cardinal principle of exercise of extraordinary jurisdiction under Article 226 of the Constitution is that in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High*

*Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not."*

22. From the above quoted paragraphs, it is seen that the first cardinal principle for issuance of a writ of certiorari is that the High Court while exercising the jurisdiction under Article 226 of the Constitution is not exercising the jurisdiction as an Appellate Authority or an Appellate Court. The High Court does not review or reweigh the evidence upon which the determination of the inferior Tribunal purports to have been based. The High Court demolishes the order which it considers to be without jurisdiction or palpably erroneous but does substitute its own views for those of the inferior Tribunal. The Supreme Court also observed that a writ of certiorari can be issued if an error of law is apparent on the face of the record and a writ of certiorari being a high prerogative writ should not be issued on a mere asking. The second cardinal principle for exercise of jurisdiction under Article 226 of the Constitution is that in a given case, even some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary





jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. The powers under Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It was observed that it is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates and equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. Further to that the High Court, while administering law, has to temper the law with equity and if equitable situation demands after setting right the legal formulations, not to take it to a logical end. The High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. The Supreme Court further observed that any other approach by the High Court would render the High Court while exercising the jurisdiction under Article 226 of the Constitution, a normal Court of Appeal, which it is not.

23. In the backdrop of the above, let this Court therefore take into consideration as to whether the impugned judgment is required to be interfered with. This is a case where approximately 280 bighas of land have been sold in auction in favour of the Petitioner, which was the subject matter of challenge before the learned Assam Board of Revenue. It is noteworthy to mention that 1 bigha of land admeasures



14,400 sq. ft. and the price at which it was sold to the Petitioner in the year 2007 was even less than one tenth of a Rupee for each sq. ft. The question is how it is possible in the year 2007 that too when such lands are situated at a radius of 40 kms from Guwahati city. The answer is manifest from the manner in which the sale proceedings were conducted by the Deputy Commissioner, Kamrup(Rural) establishment and more particularly Sub-Divisional Officer (Civil), Rangia inasmuch as, though it is the requirement as per Section 72 of the Regulation to publish the time and the place of the auction sale including the statements in the official Gazette in English and in Assamese, but it was not done so. A perusal of the Notification in the official Gazette dated 29.03.2007 which is in English shows that neither the place was mentioned nor the time. Vaguely, it was stated that the auction sale would take place after 1 month from the date of publication in the official Gazette. The nepotism and favoritism of the officials under the establishment of the Deputy Commissioner, Kamrup (Rural) does not end there inasmuch as there is no materials on records to show that the hand written notice of the SDO(Civil), Rangia which is found in the records dated 13.04.2007, the same was published in the manner as stipulated in Rule 136 of the Settlement Rules. Resultantly, it is only the persons who were interested and in close touch with the officials of the establishment of the Deputy Commissioner, Kamrup(Rural) and more particularly the SDO(Civil),



Rangia who knew the date of the auction sale and consequently the records reveal that two bidders had participated and one offered Rs.2,20,000/- for 280 bighas of land and the Petitioner who was the other, became the highest bidder with Rs.2,80,000/- for 280 bighas of land.

24. Be that as it may, this Court would like to deal with the submissions made by Mr. S. Sarma, the learned Senior Counsel for the Petitioners to the effect that in the Memo of Appeal, the Appellant/Respondent No.5 herein had mentioned about the notice for sale fixing 04.05.2007 and as such the Respondent No. 5 had due knowledge about the date fixed for auction sale. The said submission in the opinion of this Court is misconceived inasmuch as a reading of paragraph 3 of the Memo of Appeal, it was specifically stated that the Respondent No. 5 or the pattadar was never issued the said notice. Be that as it may, even if the notice was issued to the Respondent No. 5 or to the pattadar would not have remedied the defect in the initiation of the sale proceedings as the Notice of Sale had contravened Section 72 of the Regulation and Rule 135 of the Settlement Rules as observed supra.

25. It is also relevant to take note of that a perusal of Section 87 of the Regulation stipulates how the application of the proceeds of sale would be applied. From a perusal of the said provisions, it is seen that the proceeds of sale would not only be applied towards defraying the

expenses of the sale, the payment of arrear dues as well as the payment of any other arrear dues by the same defaulter but also the surplus money so received would be paid to the person whose property has been sold. Under such circumstances, the Authority who resorts to an auction sale, the Authority cannot only be interested to recover its arrear dues but also has to be mindful to the interest of the person whose estate has been put to sale. If the State Authorities do not do so, the said actions would be arbitrary, unreasonable as well as irrational and accordingly would violate the mandate of Article 14 of the Constitution. In fact, this very aspect of the matter was also duly taken note of by the learned Assam Board of Revenue in its impugned judgment.

26. This Court have also taken due notice of the findings arrived at by the learned Assam Board of Revenue. The observations and findings, in the opinion of this Court are as per the well settled principles of law for which this Court finds no illegalities or even any error in the observations and directions passed by the learned Assam Board of Revenue. It is also without any doubt that the learned Assam Board of Revenue had the jurisdiction to pass the said impugned judgment.

27. Taking into account the above analysis and the observations made hereinabove, this Court is of the firm view that no interference is required to judgment dated 23.12.2010 for which the instant writ



petition stands dismissed.

28. The Respondent Authorities are directed to take appropriate steps in terms with the judgment dated 23.12.2010 passed by the learned Assam Board of Revenue as expeditiously as possible. The interim order so passed earlier stands vacated.

29. Before concluding, this Court further finds it relevant to deal with the case as was sought to be developed by Mr. D.C. Chakraborty, the learned counsel appearing on behalf of the Respondent Nos. 6 to 16. The claims of the Respondent Nos. 6 to 16 as already mentioned above are that they are occupancy tenants and have rights to claim ownership on the basis of the provisions of the Assam (Temporarily Settled Areas) Tenancy Act, 1971. As already observed supra, the Respondent Nos. 6 to 16 never assailed the auction sale made in favour of the Petitioner before the learned Assam Board of Revenue. The rights of the Respondent Nos. 6 to 16 to claim ownership of the land under their occupation as alleged depends upon varied circumstances and the eligibility to be met out in terms with the provisions of the Assam (Temporarily Settled Areas) Tenancy Act, 1971 irrespective of whoever is the owner, provided they meet the criteria. Under such circumstances, this Court cannot pass any order in the present proceedings, wherein the Petitioner had challenged only the impugned judgment of the learned Assam Board of Revenue. The said Respondent Nos. 6 to 16 shall be at liberty to approach the appropriate authorities in that regard.



30. The Registry is directed to forthwith return the requisition records from the learned Assam Board of Revenue.

31. The records which have been produced by Ms. S. Sarma is returned.

**JUDGE**

**Comparing Assistant**