

WP(C) 1550/2010

BEFORE

THE HON'BLE MR. JUSTICE B.K. SHARMA

Heard Mr. K. Konwar, learned counsel for the petitioner. Also heard Mr. T.H. Hazarika, learned counsel for the respondents No. 4 to 14 and Mr. M. Bhagawati, learned State Counsel.

This writ petition is directed against the order dated 15.2.2010 passed by the Assam Board of Revenue in Case No. 2RA (N)(RST)/2010, by which, the prayer for restoration of the appeal being RA No. 9RA(N)/09 has been rejected. As its evident from the order dated 15.2.2010, the appeal was dismissed for default on 6.8.2009. It appears that on an earlier occasion also, the appeal was dismissed for default. However, the same was restored on the basis of the undertaking furnished by the learned counsel for the appellant that on the next date, he would argue the matter. However, on the next date, adjourned was prayed for. While granting the same it was indicated that the appeal would be disposed of on the next date. On the next date also, adjourned was prayed for by filing petition. However, there was none to press the same when the appeal was called for. Accordingly, the appeal was dismissed for default.

It is the case of the petitioner that after filing of the application seeking adjournment, he had to leave for another Court and by the time he could arrive before the Board of Revenue, the appeal was dismissed for default. Learned counsel for the petitioner submits that if an opportunity is given as a last chance, he will appear before the learned Board of Revenue and would argue the case.

In view of the above and for the ends of justice, this writ petition is disposed of by setting aside quashing the order dated 15.2.2010 passed by the Assam Board of Revenue in Case No. 2RA (N)(RST)/2010. Consequently the appeal being RA No. 9RA(N)/09 shall stand restored to file in its original number.

The petitioner shall appear before the learned Assam Board of Revenue on 10.6.2013 along with a certified copy of this order for necessary consequential order of the learned Board of Revenue. It is made clear that in case of any further default on the part of the petitioner, the learned Board of Revenue will be entitled to pass appropriate order. Needless to say that while disposing of the appeal, the respondents including the private respondents shall also be heard.

The writ petition is disposed of.