

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 6941 of 2022
(Arising out of SLP (C) No 35349 of 2017)

Habibul Rehman

Appellant

Versus

Union of India and Others

Respondents

ORDER

- 1 Leave granted.
- 2 By an *ex parte* order dated 30 June 2016, the appellant was declared by the Foreigners' Tribunal, Tinsukia as a foreigner. The appellant instituted Writ Petition (C) No 2232 of 2017 before the Gauhati High Court, which was dismissed on 21 April 2017, permitting the appellant to file an application for setting aside the *ex parte* order.
- 3 The appellant thereafter moved an application before the Foreigners' Tribunal on the ground that the notice issued by the Tribunal was received by his sister who was a illiterate and that intimation of the notice had not been furnished to the appellant. The application for setting aside the *ex parte*

order was dismissed on 8 May 2017. The appellant instituted a fresh writ petition before the Gauhati High Court which was dismissed on 25 August 2017.

- 4 The appellant has submitted that the name of his father is reflected in the NRC having a Legacy Data Code 300-3212-4164 and that the name of the father appeared in the electoral rolls of 1971.
- 5 Having perused the counter affidavit which has been filed by the State of Assam, we do not find that there is a specific traverse in respect of the document which is annexed as Annexure P-1 to the paper book. In this view of the matter, we set aside the impugned judgment and order of the High Court dated 25 August 2017 and the orders of the Foreigners' Tribunal dated 30 June 2016 and 8 May 2017. The proceeding, being FT Case No 225/D/06, is restored to the file of the Foreigners' Tribunal for a fresh decision.
- 6 The appellant shall within a period of four weeks from the date of this order file all relevant documents on which reliance is sought to be placed before the Foreigners' Tribunal. The Tribunal shall conduct the enquiry afresh and endeavour to complete the process within a period of three months of the date of the receipt of a copy of this order. No opinion has been expressed by this Court on the merits which are kept open to be decided by the Tribunal.
- 7 The appeal is accordingly disposed of.

8 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hima Kohli]

New Delhi;
September 26, 2022
CKB

ITEM NO.3

COURT NO.2

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No.35349/2017

**(Arising out of impugned final judgment and order dated 25-08-2017
in WP No.3552/2017 passed by the Gauhati High Court)**

HABIBUL REHMAN

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With I.R. and IA No.137413/2017-EXEMPTION FROM FILING O.T.)

Date : 26-09-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) **Mr. Sanjay Hegde, Sr. Adv.**
 Ms. Dharitry Phookan, AOR

For Respondent(s) **Ms. Aishwarya Bhati, ASG**
 Mr. Akshay Amritanshu, Adv.
 Ms. Diksha Rai, Adv.
 Mr. T.S. Sabarish, Adv.
 Mr. Arvind Kumar Sharma, Adv.

 Mr. Shuvodeep Roy, AOR
 Mr. Arnab Singhdeo, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 Leave granted.
- 2 The appeal is disposed of in terms of the signed order.
- 3 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R.-cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar
(Signed order is placed on the file)