

GAHC010025372016



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

Case No. : CRP/340/2016

DEEPAK BHUYAN and ANR.
S/O. SRI CHANDRADHAR BHUYAN, VILL. BASISTHAPUR, BYE LANE-2,
DISPUR, GHY.-781028, DIST. KAMRUP M, ASSAM.

2: DHRUBA DEKA

S/O. SRI UPEN DEKA
R/O. LAST GATE
DISPUR
GHY.-06
DIST. KAMRUP M
ASSAM

VERSUS

RUNU SHARMA and 12 ORS
D/O. LT. RAMDENI SHARMA, VILL. HENGRABARI, VIP ROAD, GHY.-781036,
DIST. KAMRUP M, ASSAM.

2:SRI PRADIP KR. SHARMA

S/O. LT. RAMDENI SHARMA
VILL. HENGRABARI
VIP ROAD
GHY.-781036
DIST. KAMRUP M
ASSAM.

3:SMT. GAYANTI DEVI

W/O. LT. RAJ KUMAR SHARMA

4:SRI APPU SHARMA

S/O. LT. RAJ KUMAR SHARMA

5:PAPPU SHARMA

S/O. LT. RAJ KUMAR SHARMA

6:SMT. GUNJA SHARMA

D/O. LT. RAJ KUMAR SHARMA

7:SMT. GUDJA SHARMA

D/O. LT. RAJ KUMAR SHARMA

8:SMT. LALMONI DEVI

W/O. LT. ASHOK SHARMA

9:SMT. GAPLI SHARMA

C/O. SMT. LALMONI DEVI and D/O. LT. ASHOK SHARMA
NO. 3 TO 9 ARE THE R/O. VILL. HARKHAULI WARD NO. 13
P.O. and P.S. MIRGANJ
DIST. GOPALGANJ
BIHAR
PIN-841438.

10:SRI SUSHIL KR. SHARMA

S/O. LT. RAMDENI SHARMA
R/O. 23/302
CHATRAPATI SIVAJI RAJE COMPLEX
EKTA NAGAR MAHADA
NEAR ATHRWA COLLEGE
KANDIWALI WEST MAHARASHTRA
PIN-400067.

11:SMT. MAYA SHARMA

D/O. LT. RAMDENI SHARMA
W/O. SRI VINOD SHARMA
R/O. MAHALLA NATH MALPUR
TILAK NAGAR
P.O. GORAKHNATH
GORAKHPUR UTTAR PRADESH

PIN-273015.

12:SMT. BHARATI SHARMA

D/O. LT. RAMDENI SHARMA
W/O. LT. DHIRENDRA SHARMA
R/O. 418
DILEZAKPUR
JATASHANKAR CHOWK
DIST. GORAKHPUR UTTAR PRADESH
PIN-273001.

13:SMT. RANI SHARMA
D/O. LT. RAMDENI SHARMA
W/O. SRI RAVI SHARMA
R/O. VISHWAKARMA KRISHNA HOUSE
BYEPASS ROAD
NEAR KAROND
S.Q. BHOPAL M.P.
PIN-462001

Advocate for the Petitioner : MR.H MAURYA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

10.04.2023

Heard Mr. H. Maurya, learned counsel for the petitioners. None appears for the respondents, though service is complete.

2. The present revision petition is filed against an order dated 07.01.2016, passed by the learned Munsiff No. 2, Kamrup, at Guwahati in Title Suit No. 228/2004, rejecting the petition No. 88 dated 07.01.2016 filed by the petitioners/defendant Nos. 1 and 2 seeking adjournment of the cross-examination of P.W.-3 and thereby discharged the P.W-3.

3. The matter was fixed for cross-examination of PW-3 on 07.01.2016. On that date, an adjournment was sought for on the ground that the engaged advocate for the defendant Nos. 1 and 2 were out of station and accordingly, a prayer for adjournment was made.
4. Such prayer has been rejected by the learned Court below on the ground that much time and opportunities has been given to the parties for recording of evidence before the learned Commissioner appointed by the Court but due to non-cooperation of the parties, recording of evidence could not be completed. The Court also rejected such prayer on the ground that on 07.01.2016 the case was fixed for cross-examination of PW-3 as a last chance. The further ground was that though there are number of lawyers engaged by the defendants, however, an adjournment was sought for on the ground of one counsel only.
5. This Court do not find any infirmity in the order passed by the learned trial Court below in the given facts, however, it is also discernible that the delay was caused not only due to the defendants but also for the conduct of the plaintiffs.
6. Considering the matter in entirety and also considering that right of cross-examination is a valuable right, and ends of justice can be met and miscarriage of justice can be avoided, if a chance is given to the petitioner to cross-examine the PW-3 with cost.
7. Accordingly, it is directed that a date be fixed for cross-examination of PW-3. If on such fixed date, the defendant fails to cross examine the PW-3, no further adjournment shall be granted and the matter shall proceed in

terms of the order dated 07.01.2016. The aforesaid exercise be carried out subject to deposit of a cost of Rs. 3000/- before the learned trial Court. The cost be reimbursed to the plaintiffs.

Accordingly, this revision petition is allowed.

JUDGE

Comparing Assistant