

GAHC010099562023



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

Case No. : CRP(IO)/132/2023

DEBABRATA CHOUDHURY
S/O- DILIP KUMAR CHOUDHURY ,
R/O- HAILAKANDI TOWN, WARD NO-8,
P.O AND DIST- HAILAKANDI, ASSAM,
PIN-788151

VERSUS

FUZAIL AHMED BARBHUIYA AND 9 ORS.
S/O- LT. ABDUL KHALEQUE BARBHUIYA ,
R/O- HAILAKANDI TOWN, WARD NO- 11,
P.O AND DIST- HAILAKANDI, ASSAM,
PIN-788155.

2:ABDUL KADIR BARBHUIYA
S/O- LATE IBRAHIM ALI BARBHUIYA

R/O- HAILAKANDI TOWN
WARD NO- 11

P.O AND DIST- HAILAKANDI
ASSAM

PIN-788155.

3:MUSSTT. SABIRA KHATUN BARBHUIYA
W/O- LT. ABDUL KHALEQUE BARBHUIYA

R/O- HAILAKANDI TOWN
WARD NO- 11

P.O AND DIST- HAILAKANDI

ASSAM

PIN-788155.
C/O FUZAIL AHMED BARBHUIYA.

4:MUSSTT. FARHANA BEGUM BARBHUIYA
W/O- JASIMUDDIN BARBHUIYA

VILL.- BARNAGAD

P.S.- ALGAPUR
DIST.- HAILAKANDI

PIN-788150.
C/O FUZAIL AHMED BARBHUIYA.

5:MUSSTT. IMRANA BEGUM BARBHUIYA
W/O- ABDUL KUDDUS BARBHUIYA

VILL.- BARNAGAD

P.S.- ALGAPUR

DIST- HAILAKANDI

PIN-788150.
C/O REP. NO. 1
FUZAIL AHMED BARBHUIYA.

6:MUSSTT. NAZARANA BEGUM BARBHUIYA
W/O- LT. ABDUL KHALEQUE BARBHUIYA

R/O- CHIPARSANGAM

P.S.- ALGAPUR
DIST- HAILAKANDI

PIN-788801.
C/O RES. NO. 1
FUZAIL AHMED BARBHUIYA.

7:MUSSTT. SAFUANA BEGUM BARBHUIYA
D/O- LT. ABDUL KHALEQUE BARBHUIYA

R/O- HAILAKANDI TOWN
WARD NO- 11

P.O AND DIST- HAILAKANDI

ASSAM

PIN-788155.
C/O RES. NO. 1
FUZAIL AHMED BARBHUIYA.

8:BILLAL AHMED BARBHUIYA
S/O- LT. ABDUL KHALEQUE BARBHUIYA

R/O- HAILAKANDI TOWN
WARD NO- 11

P.O AND DIST- HAILAKANDI
ASSAM

PIN-788155.
C/O RES. NO. 1
FUZAIL AHMED BARBHUIYA.

9:NUR AHMED BARBHUIYA
S/O- LT. ABDUL KHALEQUE BARBHUIYA

R/O- HAILAKANDI TOWN
WARD NO- 11

P.O AND DIST- HAILAKANDI
ASSAM

PIN-788155.
C/O RES. NO. 1
FUZAIL AHMED BARBHUIYA.

10:MUSSTT. SUKURANA BEGUM BARBHUIYA
D/O- LT. ABDUL KHALEQUE BARBHUIYA

R/O- HAILAKANDI TOWN
WARD NO- 11

P.O AND DIST- HAILAKANDI
ASSAM

PIN-788155.
C/O RES. NO. 1
FUZAIL AHMED BARBHUIYA

Advocate for the Petitioner : MR. M H RAJBARBHUIYAN

Advocate for the Respondent : FOR CAVEATOR

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

12.05.2023

Heard Mr. M.H. Rajbarbhuiya, the learned counsel appearing for the petitioner. Also heard Ms. R. Choudhury appearing for the respondent/caveator.

This is an application under Article 227 of the Constitution of India challenging the order dated 09.03.2023 passed by the learned Civil Judge, Hailakandi in T.S. Case No.19/2022.

The factual matrix leading to filing of this revision petition lies within a very short campus.

The petitioner is the defendant before the trial court. He has already taken many adjournments before filing of his evidence-in-affidavit. Finally, the court refused to grant him time to file his evidence-in-affidavit and posted the case for argument.

The petitioner has shown a long list of grounds for his failure to file the evidence. Ms. Choudhury has vehemently objected to the prayer made by the petitioner on the ground that the petitioner has been unnecessarily dragging the litigation for a long time.

I have considered the submissions made by the learned counsels of

both sides in the light of the attending situations.

I have decided that the petitioner should be given at least one opportunity to file his evidence. Therefore, the the impugned order dated 09.03.2023 passed by the learned Civil Judge, Hailakandi in T.S. Case No.19/2022 is set aside.

The petitioner shall file his evidence on 20.05.2023 on payment of a cost of Rs.2,000/- to be paid to the respondents. This shall be the single opportunity given to the petitioner to file his evidence. No further chance shall be given to the petitioner to file his evidence. If he fails to file his evidence on that day, the trial court shall have the liberty to proceed with the case in accordance with the procedure as laid down by law.

Revision petition is disposed of.

JUDGE

Comparing Assistant