

GAHC010187722018



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

Case No. : CRP(IO)/291/2018

RANJIT DUTTA
S/O. SRI BHADRESWAR DUTTA, R/O. GARKAKHARIA GAON, P.O.
MOGORAHAT, DIST. SIVASAGAR, ASSAM -785666

VERSUS

THE STATE OF ASSAM AND 12 ORS.
REP. BY THE DY. COMMISSIONER, SIVASAGAR DISTRICT, P.O. SIVASAGAR,
P.S. SIVASAGAR, DIST. SIVASAGAR, ASSAM-785640.

2:THE SECRETARY

TO THE MINISTRY OF HOME AFFAIRS
STATE OF ASSAM
P.O. ASSAM SACHIVALAYA
DISPUR
DIST. KAMRUP (M)
ASSAM-781006.

3:HEMANTA BARUAH

THE THEN OFFICER IN CHARGE
SIVASAGAR POLICE STATION
P.O. SIVASAGAR
P.S. SIVASAGAR
DIST. SIVASAGAR
ASSAM-785640.

4:THE COMMANDENT

OFFICE OF THE HOME GUARD
NEAR OFFICE OF THE SUPDT. OF POLICE

JORHAT
P.O. JORHAT
DIST. JORHAT
ASSAM-785001.

5:THE IN CHARGE

OFFICE OF THE HOME GUARD
P.O. AND DIST. SIVASAGAR
ASSAM-785640.

6:PRABHAT DAS

S/O. SRI BHUBAN DAS
WORKING AS HOME GUARDS
OFFICE OF THE HOME GUARD
SIVASAGAR
P.O. AND DIST. SIVASAGAR
ASSAM-785640.

7:MUNIN GOGOI

S/O. LT. PUNESWAR GOGOI
WORKING AS HOME GUARDS
OFFICE OF THE HOME GUARD
SIVASAGAR
P.O. AND DIST. SIVASAGAR
ASSAM-785640.

8:KAMAL BARUAH

S/O. LT. BHUGRAM BARUAH
WORKING AS HOME GUARDS
OFFICE OF THE HOME GUARD
SIVASAGAR
P.O. AND DIST. SIVASAGAR
ASSAM-785640.

9:SUJIT HAZARIKA

S/O. JOY CHANDRA HAZARIKA
WORKING AS HOME GUARDS
OFFICE OF THE HOME GUARD
SIVASAGAR
P.O. AND DIST. SIVASAGAR
ASSAM-785640.

10:ANIL GOGOI

S/O. SRI GANESH GOGOI
WORKING AS HOME GUARDS
OFFICE OF THE HOME GUARD
SIVASAGAR
P.O. AND DIST. SIVASAGAR
ASSAM-785640.

11:ASHAN ULLAH

S/O. UNKNOWN
WORKING AS HOME GUARDS
OFFICE OF THE HOME GUARD
SIVASAGAR
P.O. AND DIST. SIVASAGAR
ASSAM-785640.

12:M/S SHIV-VANI OIL AND GAS EXPLORATION SERVICES LTD.

REP. BY ITS MANAGING DIRECTOR
F-213/C
3RD FLOOR
LADO SARAI
M.B. ROAD
NEW DELHI-110030.

13:THE OIL AND NATURAL GAS CORPORATION LTD.

REP. BY ITS COMPANY SECRETARY
JEEVAN BHARATI
TOWER-II
INDIRA CHOWK
NEW DELHI-110001

Advocate for the Petitioner : MR. M DUTTA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 18.01.2023

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Heard Mr. A. Lahkar, the learned counsel appearing on behalf of the petitioner,

Mr. T.R. Gogoi, the learned Junior Government appearing for the respondent Nos. 1, 2, 4 and 5 and Mr. P.K. Roy, the learned senior counsel assisted by Mr. S. K. Chakraborty appearing for the respondent No. 13. None appears for the respondent Nos. 3,6, 7, 8, 9, 10, 11 and 12 on call.

The instant application under Article 227 of the Constitution has been filed challenging the order dated 15/6/2018 whereby the Trial Court had rejected the prayer of the plaintiff seeking further time for appearance of the PW-3 for further cross-examination.

It is the case of the petitioner that on 15/6/2018 the PW-3 could not appear for facing the further cross-examination on account of his illness and this aspect of the matter was not taken into consideration by the Court below while passing the order dated 15/6/2018 and thereby fixing the matter on 22/6/2018 for DWs.

The learned counsel for the petitioner submits that if an opportunity is being granted, the plaintiff would make sure that the PW-3 appears before the Trial Court on such date as may be fixed by the Trial Court without fail.

Taking into account that the PW-3 was partly cross-examined, this Court is of the view that the interest of justice would be met, if one further opportunity is granted to the PW-3 to be present on such date as the Trial Court may fix. Accordingly, this Court disposes off this petition by interfering with the order dated 15/6/2018 and thereby grants one final opportunity to the plaintiff to produce the PW-3 for further cross-examination on such date as the Trial Court may fix. It is made clear that if on such date as fixed by the Trial Court, the PW-3 does not appear, the entire evidence of the PW-3 shall stand expunged.

In view of the above observations and directions, the instant petition stands disposed off.

The interim order dated 3/9/2018 passed by this Court stands vacated.

The parties are directed to appear before the Trial Court i.e. the Court of the Civil Judge, Sivasagar on 1st of February 2023 on which date, the Trial Court shall fix a specific date for appearance of PW-3 to face his cross-examination. It is reiterated that if the PW-3 fails to appear on such date as may be fixed by the Trial Court, the entire evidence of PW-3 shall stand expunged.

JUDGE

Comparing Assistant