

GAHC010260542023



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

Case No. : I.A.(Civil)/3416/2023

SMTI. IBEMHAL SINGHA
W/O LATE KUNJAMONI SINGHA, C/O AKRAM ALI, VILL AND P.O.-
BANSKANDI, P.S.-LAKHIPUR, DIST-CACHAR, ASSAM

VERSUS

IRABAT SINGHA AND 12 ORS.
S/O LATE IBOTON SINGHA, R/O VILL AND P.O.-BANSKANDI, P.S.-
LAKHIPUR, DIST-CACHAR, ASSAM

2:BHAGIRATHA SINGHA
S/O LATE IBOTON SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

3:SURENDRA KUMAR SINGHA
S/O LATE IBOTON SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

4:NARENDRA SINGHA
S/O LATE IBOTON SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

5:SMTI NIRUPA SINGHA

D/O LATE IBOTON SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

6:SMTI NIRALA SINGHA
D/O LATE IBOTON SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

7:SMTI PREMODA SINGHA
D/O LATE BRAJENDRA SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

8:SMTI BOBITA SINGHA
D/O LATE BRAJENDRA SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

9:PREMJIT SINGHA
S/O LATE BRAJENDRA SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

10:SMTI BINA SINGHA
D/O LATE BHAGYABATI SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

11:BINAY SINGHA
S/O LATE BHAGYABATI SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

12:RONO SINGHA
S/O LATE BHAGYABATI SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

13:SANATOMBA SINGHA
S/O LATE BHAGYABATI SINGHA
R/O VILL AND P.O.-BANSKANDI
P.S.-LAKHIPUR
DIST-CACHAR
ASSA

Advocate for the Petitioner : MR. D MOZUMDER

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 29-11-2023

29.11.2023.

Heard Mr. D. Mazumdar, learned Senior Counsel assisted by Mr. G.R. Dutta, learned counsel for the applicant.

2. This interlocutory application has been filed for review of the order dated 25.09.2023 passed in CRP No.150/2023.

3. The learned Senior counsel for the petitioner has submitted that this Court having recorded his submission to the effect that application under order IX Rule 13 CPC was without jurisdiction and consequently the order dated 24.07.2023, which was impugned in CRP No. 150/2023 was also without jurisdiction, this Court had granted liberty to the applicant to withdraw the said CRP No. 150/2023 with liberty to approach the Court again. However, while

prayer made by the learned counsel for the applicant is recorded in para 10 of the order, while granting liberty, this Court granted liberty to the petitioner to approach the Court of learned Civil Judge No. 1, Cachar, Silchar.

4. Accordingly it appears that the liberty granted to the applicant to approach the Court of learned Civil Judge No. 1 Cachar, Silchar is inadvertent typographical error which crept in the order dated 25.09.2023, passed in CRP No. 150/2023.

5. Paragraph 10 of the said order dated 25.09.2023 in CRP No. 150/2023 read as follows:

“Apparently, it appears that an application under Order IX Rule 13 read with Section 151 CPC is not the appropriate remedy to set aside the appellate order passed in exercise of jurisdiction under Order XLIII Rule 1(r) CPC even if such order was ex parte. Therefore, the Court is inclined to allow the prayer made by the learned senior counsel for the petitioner and this present revision stands closed on withdrawal with liberty to the petitioner to approach the Court of learned Civil Judge No.1, Cachar, Silchar in an appropriate jurisdiction, if the petitioner, who is the substituted legal representatives of the original defendant no.1 is aggrieved by the order dated 09.12.2016 passed in the proceedings of Misc. Appeal No. 7/2016. Further liberty is granted to the petitioner to assail the two orders dated 24.07.2023 passed by the learned Civil Judge No.1, Cachar, Silchar in Misc. Case No. 73/2017 and Misc. Case No.74/2017, in an appropriate manner, if so advised”.

6. The corrected paragraph 10 of the said order shall now be read as follows:

“ Apparently, it appears that an application under Order IX Rule 13 read with Section 151 CPC is not the appropriate remedy to set aside the appellate order passed in exercise of jurisdiction under Order XLIII Rule 1(r) CPC even if such order was ex parte. Therefore, the Court is inclined to allow the prayer made by the learned senior counsel for the petitioner and this present revision stands closed on withdrawal with liberty to the petitioner to approach this

Court in an appropriate jurisdiction, if the petitioner, who is the substituted legal representatives of the original defendant no.1 is aggrieved by the order dated 09.12.2016 passed in the proceedings of Misc. Appeal No. 7/2016. Further liberty is granted to the petitioner to assail the two orders dated 24.07.2023 passed by the learned Civil Judge No.1, Cachar, Silchar in Misc. Case No. 73/2017 and Misc. Case No.74/2017, in an appropriate manner, if so advised".

7. Accordingly, this review application stands allowed to the extent as indicated above.

8. This order shall now be read together with the order dated 25.09.2023 passed in CRP No. 150/2023.

JUDGE

Comparing Assistant