

GAHC010001122020



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

Case No. : I.A.(Civil)/57/2020

SMTIMINA DEKA THAKURIA
W/O LATE GOLAK DEKA, D/O KAMALESWAR THAKURIA, R/O SHANTIPUR
HILL SIDE, P.O. AND P.S. BHARALUMUKH, DIST. KAMRUP (M), ASSAM.

VERSUS

ON THE DEATH OF SUBARNESWAR THAKURIA HIS LEGAL HEIRS ANIMA
THAKURIA AND ANR
W/O LATE SUBARNESWAR THAKURIA, R/O VILL. KOCHPARA, P.O. MIRZA,
P.S. PALASHBARI, DIST. KAMRUP (R), ASSAM, PIN 781125

2:DEIZI THAKURIA DAS
D/O LATE SUBARNESWAR THAKURIA
R/O VILL. MIRZA
P.O. MIRZA
P.S. PALASHBARI
DIST. KAMRUP (R)
ASSAM
PIN 78112

Linked Case : I.A.(Civil)/58/2020

SMTIMINA DEKA THAKURIA
W/O LATE GOLAK DEKA
D/O KAMALESWAR THAKURIA
R/O SHANTIPUR HILL SIDE
P.O. AND P.S. BHARALUMUKH
DIST. KAMRUP (M)
ASSAM.

VERSUS

ON THE DEATH OF SUBARNESWAR THAKURIA HIS LEGAL HEIRS ANIMA
THAKURIA AND ANR
W/O LATE SUBARNESWAR THAKURIA
R/O VILL. KOCHPARA
P.O. MIRZA
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DIST. KAMRUP (R)
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2:DEIZI THAKURIA DAS
D/O LATE SUBARNESWAR THAKURIA
R/O VILL. MIRZA
P.O. MIRZA
P.S. PALASHBARI
DIST. KAMRUP (R)
ASSAM
PIN 781125

For the Applicant(s) : Mr. H. Das, Advocate

For the Respondent(s) : Mr. P. P. Das, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 26.06.2024

This Court has duly taken note of that vide an order dated 14.11.2022, this Court had condoned the delay of 1627 days in filing the application for setting aside the abatement and substitution of the legal heirs of the sole Respondent in Misc. Case No.1921/2014 [I.A.(Civil) No.56/2020].

2. This Court had also directed the applicant to deposit a cost of Rs.5,000/- which was duly deposited on 18.05.2023. Taking into account that this Court had already condoned the delay and the right to sue

survives against the legal representatives of the sole Respondent, this Court sets aside the abatement as regards the sole Respondent and substitutes the legal representatives of the sole Respondent whose names appear at paragraph No.2 of the I.A.(Civil) No.58/2020 as Respondent Nos. 1(i) and 1(ii) to the accompanying Second Appeal.

3. Accordingly, both the applications stands allowed.

4. The learned counsel for the Appellant is directed to file fresh Memo of Parties in both the Second Appeal as well as also in the application for condonation of delay before the Registry of this Court within 7 days from today and on the basis thereof, the Registry shall make necessary correction in the Cause Title of the application for condonation of delay as well as the accompanying Second Appeal and update the same in the CIS. Thereupon, the Registry shall list the matter for orders for consideration of the condonation application.

5. The Registry is further directed to show the name of Mr. P. P. Das as the counsel for the Respondent in the Cause List.

JUDGE

Comparing Assistant