

GAHC010008072024



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

Case No. : CRP(IO)/32/2024

ANARA KHATUN AND 4 ORS
W/O HUCHEIN ALI SHEIKH, VILL- BHITOR CHENG MARI, P.O. AND P.S. AND
DIST-BONGAIGAON (ASSAM)

2: MONOWAR KHATUN
W/O ABDUL HASEM
VILL-KAJIPARA PART-I
P.O. AND P.S.-CHAPOR
DIST-DHUBRI (ASSAM)

3: JAHANARA BEGUM
W/O ABUL HUSSAIN
VILL- NICHINA PARA
P.O. AND P.S.-BASUGAON
DIST-CHIRANG
BTAD (ASSAM)

4: ALEYA BIBI
W/O SAHID ALI
VILL-BHITOR CHENG MARI
P.O.
P.S. AND DIST-BONGAIGAON (ASSAM)

5: MONJUNARA BEGUM @ MONJUWARA BEGUM
W/O NUR HUSSAIN SHEIKH
VILL-KAJIPARA PART-I
P.O.-CHAPOR
DIST-DHUBRI (ASSAM)

VERSUS

BAJLUR RAHMAN AND 5 ORS
S/O LATE DHARIBUDDIN AHMED, R/O VILL-BHITOR CHENG MARI, P.O.-
BIDYAPUR, P.S. AND DIST-BONGAIGAON (ASSAM), PIN-783372

2:ASHAD ALI AHMED
S/O LATE DHARIBUDDIN AHMED
R/O VILL-BHITOR CHENG MARI
P.O.-BIDYAPUR
P.S. AND DIST-BONGAIGAON (ASSAM)
PIN-783372

3:ABU MOHAMMAD ALI
S/O LATE DHARIBUDDIN AHMED
R/O VILL-BHITOR CHENG MARI
P.O.-BIDYAPUR
P.S. AND DIST-BONGAIGAON (ASSAM)
PIN-783372

4:NUR ISLAM AHMED
S/O LATE DHARIBUDDIN AHMED
R/O VILL-BHITOR CHENG MARI
P.O.-BIDYAPUR
P.S. AND DIST-BONGAIGAON (ASSAM)
PIN-783372

5:BIBIJAN KHATUN
D/O LATE DHARIBUDDIN AHMED
R/O VILL-BHITOR CHENG MARI
P.O.-BIDYAPUR
P.S. AND DIST-BONGAIGAON (ASSAM)
PIN-783372

6:CHAHENARA KHATUN
D/O LATE DHARIBUDDIN AHMED
R/O VILL-BHITOR CHENG MARI
P.O.-BIDYAPUR
P.S. AND DIST-BONGAIGAON (ASSAM)
PIN-78337

For the Appellant(s) : Ms. R. Choudhury, Advocate

For the Respondent(s) : Mr. N. Haque, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 27.06.2024

This is an application filed under Article 227 of the Constitution challenging the order dated 03.11.2023 passed in Misc. (J) Case No.61/2022 arising out of Title Suit No.34/2020 whereby the application filed for amendment of the plaint was rejected.

2. This Court has duly taken note of the application filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short "the Code") and therefrom it is seen that by way of an amendment, what the petitioners being the plaintiffs sought for is to abandon a part of the claim i.e. in respect to land measuring 2 Bighas 1 Kathas 1 Lechas covered by Patta No.11, Dag No.64 situated at village Bhitor Chengmari under Revenue Circle, Dangtal (Bidyapur).

3. In the opinion of this Court, the instant application was an application under Rule XXIII Rule 1 of the Code thereby abandoning a part of the claim and as such the learned Trial Court was not justified in rejecting the said application whereby the plaintiffs sought for abandoning a part of their claim in respect to the land aforementioned. Under such circumstances, this Court interferes with the impugned order dated 03.11.2023 and allows the application under Order VI Rule 17 of the Code which has been registered and numbered as Misc. (J) Case No.61/2022.

4. It is seen that this Court vide an order dated 22.01.2024 had stayed the further proceedings of Title Suit No.34/2020. The said stay order

stands vacated and the parties herein who are duly represented are directed to appear before the learned Trial Court on 12.07.2024 on which date, the plaintiffs shall file the amended plaint. It is made clear that if the amended plaint is not filed on that date, the consequences as entailed under Order VI Rule 18 of the Code shall follow.

5. With above observations and directions, the instant petition stands disposed of.

JUDGE

Comparing Assistant