

GAHC010014702024



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

Case No. : CRP(IO)/42/2024

UTPAL DUTTA

S/O- SRI DURGA DUTTA, R/O- WARD NO. 6, PANINDRA ROAD, NORTH
LAKHIMPUR TOWN, P.O. AND P.S. NORTH LAKHIMPUR, DIST.
LAKHIMPUR.

VERSUS

HAREN BORA AND 4 ORS

S/O- MUKHESWAR BORA, C/O- SADOU AXOM AMULA SANTHA, NORTH
LAKHIMPUR BRANCH, R/O- JYOTI NAGAR, P.O., P.S. AND DIST. DHEMAJI,
ASSAM

2:JITEN HILOIDARI

C/O- SADOU AXOM AMULA SANTHA
NORTH LAKHIMPUR BRANCH
R/O- TELAHI BANTOW
P.O. PHUKANARHAT
P.S. PANIGAO
DIST. LAKHIMPUR
ASSAM

3:THE CIRCLE OFFICER

NORTH LAKHIMPUR REVENUE CIRCLE
DIST. LAKHIMPUR
ASSAM

4:THE DEPUTY COMMISSIONER

LAKHIMPUR
NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM

5:THE SECRETARY TO THE GOVT. OF ASSAM
ASSAM SECRETARIAT
DISPUR
GUWAHATI
ASSA

Advocate for the Petitioner : MR B KAUSHIK

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

07.02.2024

Heard Mr. B. Kaushik, learned counsel for the petitioner as well as Ms. K. Phukan, learned Government Advocate, for the respondent nos. 3,4 and 5.

This is an application filed under Article 227 of the Constitution of India challenging the order dated 06.11.2023 passed by the learned Civil Judge (Junior Division) No. 1, North Lakhimpur in Misc. (J) Case No. 21/2023.

The petitioner, being the plaintiff before the trial court, claimed to be possessor of plot of land measuring 10 lechas. He filed the suit praying for confirmation of his possession and for injunction restraining the respondents/defendants from forceful possession.

The respondent filed the written statement and the counter claim praying for a decree for eviction of the present petitioner from the suit land. Therefore, the petitioner filed an application before the court below under Order VI Rule 17 of the CPC praying for amendment of the plaint by inserting the paragraph 18 (i) and another additional prayer in the prayer portion of the plaint.

After hearing the learned counsel for both sides, the learned trial court held that the proposed amendment would change the nature and character of the suit.

I have considered the submission made by the learned counsel for both the sides. After going through the materials available on record, this court is of the opinion

that the trial court has erroneously opined and arrived at a wrong finding. The proposed amendment would not change the nature and character of the suit. Hence, the impugned order dated 06.11.2023 passed by the learned Civil Judge (Junior Division) No. 1, North Lakhimpur in Misc. (J) Case No. 21/2023 is set aside.

The plaintiff/petitioner shall be allowed to amend the plaint by filing an amendment petition.

With the above, the civil revision petition is disposed of.

JUDGE

Comparing Assistant