

GAHC010020232024



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

Case No. : MC/8/2024

PRABHAT CH. ROY AND 5 ORS.
S/O LATE DAYAL ROY,
RESIDENT OF VILLAGE MOHANPUR R.A, PO AND PS ALGAPUR, DIST
HAILAKANDI, ASSAM

2: ANIL ROY
S/O LATE DAYAL ROY
RESIDENT OF VILLAGE MOHANPUR R.A PO AND PS ALGAPUR
DIST HAILAKANDI
ASSAM

3: SRI SUNIL ROY
S/O LATE DAYAL ROY
RESIDENT OF VILLAGE MOHANPUR R.A PO AND PS ALGAPUR
DIST HAILAKANDI
ASSAM

4: SRI KULENDRA ROY
S/O LATE KUSHAL ROY

RESIDENT OF VILLAGE MOHANPUR R.A PO AND PS ALGAPUR
DIST HAILAKANDI
ASSAM

5: SRI UMESH ROY
S/O LATE KUSHAL ROY

RESIDENT OF VILLAGE MOHANPUR R.A PO AND PS ALGAPUR
DIST HAILAKANDI
ASSAM

6: SRI KAJAL ROY
S/O LATE AKOOLAT ROY
RESIDENT OF VILLAGE MOHANPUR R.A PO AND PS ALGAPUR

DIST HAILAKANDI
ASSA

VERSUS

MANJIR ALI BARBHUIYA AND ANR.
S/O MUJOMMIL ALI BARBHUIYA, RESIDENT OF VILLAGE MOHANPUR R.A
,PO AND PS ALGAPUR, DIST HAILAKANDI, ASSAM

2:HUSSAIN AHMED BARBHUIYA
S/O MANJIR ALI BARBHUIYA
RESIDENT OF VILLAGE MOHANPUR R.A PO AND PS ALGAPUR
DIST HAILAKANDI
ASSA

For the Petitioner(s) : Mr. N. H. Barbhuiya, Advocate

For the Respondent(s) : None appears.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 29.04.2024

1. This is an application for restoration of RSA No.169/2023 to the file which was dismissed for non-prosecution vide an order dated 05.01.2024.
2. This Court had duly perused the order dated 05.01.2024 wherein it reveals that the Appellant was not only represented on that date but the Appellant also not appeared on 27.09.2023 and it is under such circumstances, this Court had opined that the Appellant was not interested to further prosecute with the appeal.
3. Today, Mr. N. H. Barbhuiya, the learned counsel appearing on behalf of the Appellants submitted that it was solely his mistake for which the Appellants

were not represented twice when the matter had been called for. This Court further takes note of that the accompanying appeal had been listed on 3 (three) occasions. On 15.09.2023, the learned counsel for the appellants sought for time and at his request, the matter was fixed on 27.09.2023. However, on 27.09.2023 also, the appellant did not appear. This Court for the ends of justice again adjourned the matter and listed after 4 (four) weeks. On 05.01.2024, when the matter was listed, again the appellants did not appear.

4. Taking into account that it was the mistake on the part of the lawyer, this Court would not like to penalize the appellant for the fault of the lawyer. However, this Court imposes a cost of Rs.10,000/- upon Mr. N. H. Barbhuiya, the learned counsel to be deposited before the Registry of this Court on or before 09.05.2024. Upon such deposit being made, the appeal be restored to the file and listed on such date the Registry may deem fit.

5. Accordingly, I.A. stands disposed of.

JUDGE

Comparing Assistant