

GAHC010026262019



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

Case No. : I.A.(Civil)/489/2019

SRI SWAPAN KUMAR KANU AND ANR
S/O SRI SATTYA NARAYAN KANU, R/O GAURIPUR TOWN, WARD NO. 3, P.O.
AND P.S. GAURIPUR, DIST. DHUBRI, ASSAM, PIN 783331

2: TAPAN KUMAR KANU
S/O RI SATTYA NARAYAN KANU
R/O GAURIPUR TOWN
WARD NO. 3
P.O. AND P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN 78333

VERSUS

SMTI PARVATI BALA KANU AND 6 ORS
W/O LATE SIB LAL KANU, R/O WARD NO. 3, GAURIPUR TOWN, P.O. AND
P.S. GAURIPUR, DIST. DHUBRI, ASSAM, PIN 783331

2: RANJAN PRASAD KANU
S/O LATE SIB LAL KANU
R/O WARD NO. 3
GAURIPUR TOWN
P.O. AND P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN 783331

3: SMTI MINA KANU
W/O SRI MADAN PRASA KANU
D/O LATE SIB LAL KANU
P.O. DINGDINGA
P.S. GOSSAIGAON
DIST. KOKRAJHAR

BTAD
PIN 783331

4:SMTI BINA KANU
W/O SRI ASHOK KANU
D/O LATE SIB LAL KANU
R/O SILIGURI (NAYABAZAR)
P.O. AND P.S. SILIGURI
DIST. DARJEELING
WEST BENGAL
PIN 734005

5:SMTI MIRA KANU
W/O SRI SANJAY GUPTA
D/O LATE SIB LAL KANU
P.O. RAMPHU BAZAR
DIST.DARJEELING
WEST BENGAL
PIN 734315

6:JAGADISH SHAH
W/O LATE SHIB RATAN SHAH
R/O GAURIPUR TOWN WARD NO. 4
P.O. AND P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN 783331

7:BASDEO SHAH
S/O LATE HIRALA SHAH
R/O GAURIPUR TOWN WARD NO. 4
P.O. AND P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN 78333

Advocate for the Petitioner : MR G P BHOWMIK

Advocate for the Respondent : MS. R CHOUDHURY

Linked Case :

SRI SWAPAN KUMAR KANU AND ANR

VERSUS

SMTI PARVATI BALA KANU AND 6 ORS

Advocate for :

Advocate for : appearing for SMTI PARVATI BALA KANU AND 6 ORS

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

08.05.2024

Mr. D. K. Kalita, the learned counsel appearing on behalf of the applicants submits that the instant application is an application seeking condonation of delay of 71 days in preferring the accompanying Appeal against the order dated 25.04.2018 passed by the learned Civil Judge, Dhubri in Title Appeal No.36/2015.

2. The learned counsel for the applicants duly submits that the dispute between the parties was a landlord tenant dispute which comes within the ambit of Assam Urban Areas Rent Control Act, 1972. Referring to Section 8 of the Act of 1972 and taking into account the provisions of Order XLIII Rule 1(u) of the Code of Civil Procedure, 1908 which stipulate that an Appeal would only lie against an order of remand provided an Appeal lies against that order. The learned counsel for the applicants submits that the accompanying Appeal so filed was not maintainable. Under such circumstances, he therefore submits that a revision application has also

been filed challenging the said order. The learned counsel for the applicants therefore submits that he may be permitted to withdraw instant application.

3. Taking into account the above, the instant application stands dismissed on withdrawal.

4. The consequential effect of withdrawal of the instant application is that the accompanying Regular Second Appeal which is yet to be registered cannot be entertained as it is barred by limitation.

JUDGE

Comparing Assistant