

GAHC010028262024



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

Case No. : CRP(IO)/66/2024

NARAYAN KALITA
S/O- LATE PRANESWAR KALITA, R/O- VILL. NO. 1 PANCHALI, P.O. LASKAR
PATHAR, P.S. LANKA, DIST. HOJAI, ASSAM, PIN- 782446.

VERSUS

UTPAL KALITA
S/O- LATE PRANESWAR KALITA, R/O- VILL. NO. 1 PANCHALI, P.O. LASKAR
PATHAR, P.S. LANKA, DIST. HOJAI, ASSAM, PIN- 782446.

Advocate for the Petitioner : MR. N B P SINGHA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

21.02.2024

Heard Mr. N B P Singha, learned counsel for the petitioner.

This is an application under Article 227 of the Constitution of India challenging the order dated 29.11.2023 passed by the learned Civil Judge (Junior Division), Sankardev Nagar, Hojai in Title Suit No. 01/2019.

The petitioner is the plaintiff before the trial court. On 29.11.2023 the petitioner

filed his evidence and also filed an application praying for time to file evidence of other witnesses.

On that day, the defendant filed an application objecting the aforesaid prayer made by the petitioner. The trial court, for certain reasons, rejected the prayer of the plaintiff and refused to grant time to file evidence of other witnesses and fixed the case for examination of witnesses of the defendant's side.

Since the plaintiff prayed for time to file evidence of other witnesses the case should have been posted for cross-examination of the PWs but that was not done by the trial court. This is a clear case where the trial court did not exercise judicial mind while passing the impugned order. Therefore, the order dated 29.11.2023 passed by the learned Civil Judge (Junior Division), Sankardev Nagar, Hojai in Title Suit No. 01/2019 is bad in law and stands set aside. The trial court shall post the case for cross-examination of the PWs first and then the defendant shall be given liberty to cross-examine the witnesses of the plaintiff and after cross-examination of all the PWs, the case shall be posted for evidence of the defendant side.

With the above direction, the present civil revision stands disposed of.

JUDGE

Comparing Assistant