

GAHC010028902023



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

Case No. : MC/14/2023

NATIONAL INSURANCE CO. LTD
A GOVT. OF INDIA UNDERTAKING CO. HAVING ITS REGISTERED OFFICE
AT NO. 3 MIDDLETON STREET, KOLKATA AND ONE OF THE REGIONAL
OFFICE SITUATED AT G.S. ROAD, BHANGAGARH, GUWAHATI 781005

VERSUS

MUSSTT JUSNA KHANAM and 6 ORS
W/O LT. SHAHAB UDDIN RESIDANT OF VILLAGE DURARA, P O
KANAIBAZAR PS PATHARKANDI DIST KARIMGANJ ASSAM PIN 788724

2:MD MAHMADUL HASAN
SON OF LATE SHAHAB UDDIN

3:MD ABDULLA AL AHASAN
SON OF LATE SHAHAB UDDIN

4:MUSSTT MAHMUDA BEGUM
D/O LATE SHAHAB UDDIN

5:MUSSTT MASHUDA NURI
D/O LT. SHAHAB UDDIN

6:MD NASIR UDDIN
SO LT SAMSUL ISLAM AND BROTHER OF LT SHAHAB UDDIN
ALL THE RESPONDENT NO 1 TO 6 ARE RESIDENT OF VILLAGE DUGARA
PO KANAIBAZAR PS PATHARKANDI DIST KARIMGANJ ASSAM PIN 788724

7:MD JAHURUL ISLAM
S/O MD SAD UDDIN
R/O VILL NALBARI
PO AND PS PATHERKANDI DIST KARIMGANJ PIN 788724(OWNER OF
VEHICLE NO AS 10-5995

Advocate for the Petitioner : MR. R GOSWAMI, MS. M SAIKIA, MS. P BORTHAKUR

Advocate for the Respondent : MR. P D NAIR,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 16.09.2024

Heard Mr. R. Goswami, learned counsel for the applicant. Also heard Mr. S. R. A. Naser, learned counsel for the opposite parties.

This application under Order 41 Rule 19 of the Code of Civil Procedure, 1908 has been filed by the applicant National Insurance Company for readmission of MAC Appeal No. 282/2021 which was dismissed for non-prosecution on 31.10.2022.

The learned counsel for the applicant has submitted that on an earlier occasion also, the MAC Appeal No. 282/2021 was dismissed for non-prosecution. However, on both the occasions when the matter was listed before the Court in the cause-list, the name of the learned counsel for the applicant was not reflected due to which the listing of the said appeal missed the notice of the applicant's counsel and, therefore, he could not remain present before the Court when the matter was called up.

On the other hand, learned counsel for the opposite parties has opposed the prayer for readmission on the ground that on two occasions, the said appeal was dismissed for default and the ground

shown by the applicant may not be treated as sufficient ground for readmitting the dismissed appeal.

I have considered the submissions made by the learned counsel for the applicant as well as learned counsel for the opposite parties.

On perusal of the cause-list dated 31.10.2022 which has been annexed as 'Annexure- VII' along with the application filed by the applicant, it appears that the name of one Ms. K. Deka has been shown as counsel for the appellant, however, Mr. R. Goswami, learned counsel for the appellant submits that Ms. K. Deka is not the engaged counsel for the appellant and due to which he missed to notice the listing of the MAC Appeal No. 282/2021 on the said day i.e., 31.10.2022.

The grounds shown by the learned counsel for the appellant appears to be sufficient cause which had prevented the counsel for the appellant to appear before the Court when the matter was called on 31.10.2022.

As the name of the engaged counsel for the appellant Mr. R. Goswami has not been shown in the cause list of 31.10.2022.

In view of above, this Misc. Case is allowed and the MAC Appeal No. 282/21 which was dismissed on 31.10.2022 is directed to be readmitted for hearing.

The Registry is directed to list the same after a week after readmission.

The Registry is also directed to show the name of engaged counsel for the appellant, namely, Mr. R. Goswami as well as Mr. S.

R. A. Naser and Mr. P. D. Nair for the respondent in the cause-list.

This MC is disposed of.

JUDGE

Comparing Assistant