

GAHC010042902024



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

Case No. : CRP(IO)/91/2024

TROILUKYA GOHAIN BARUAH
S/O- LATE MIHI KANTA GOHAIN BARUAH, R/O- NAKARI NAGAR, WARD
NO. 3, P.O. AND P.S. NORTH LAKHIMPUR, DIST. LAKHIMPUR, ASSAM, PIN-
787001 AND PRESENTLY RESIDING AT LAMB ROAD, HOUSE NO. 42, 2ND
FLOOR, LATASIL, P.S. LATASIL, UZANBAZAR, GHY-781001, DIST.
KAMRUP(M), ASSAM

VERSUS

PUTALI GOHAIN BARUAH AND ANR
W/O- LATE CHAMPAK GOHAIN BARUAH, R/O- NAKARI NAGAR, WARD
NO. 3, P.O. AND P.S. NORTH LAKHIMPUR, DIST. LAKHIMPUR, ASSAM, PIN-
787001.

2:GAURAVE GOHAIN BARUAH
S/O- LATE CHAMPAK GOHAIN BARUAH
R/O- NAKARI NAGAR
WARD NO. 3
P.O. AND P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM
PIN- 787001

Advocate for the Petitioner : MR. T J MAHANTA

Advocate for the Respondent : MR. S D PURKAYASTHA (r-1,2)

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

03.04.2024

This is an application under Article 227 of the Constitution challenging the order dated 17.02.2024 whereby the learned Trial Court granted additional opportunity to the defendant to cross-examine the plaintiff, thereby rejecting the application filed by the plaintiff for closing the cross examination of the plaintiff on account of the defendants having taken numerous adjournments.

2. This Court has taken note of the order dated 17.02.2024 and is of the opinion that the said order is just and reasonable and does not require any interference from this Court.

3. This Court has also heard the learned counsel appearing on behalf of the parties and have given due consideration to their arguments.

4. Taking into account the application which was filed by the petitioner/plaintiff which shows that on various occasions adjournments were taken, this Court is of the opinion one final opportunity should be given to the defendants to cross examine the plaintiff witness. On the next date, the plaintiff witness shall be present before the learned Trial Court and on that date, the learned Trial Court shall record the cross examination.

5. In the circumstance, the defendant seeks for any adjournment, the further opportunity of cross examination of the plaintiff evidence has to be closed.

6. It has been submitted at the Bar that the next date fixed before the learned Trial Court is 15.05.2024. Therefore, on the said date, the plaintiff witness shall be present before the learned Trial Court and the learned Trial

Court shall carry out the cross examination of the plaintiff witness in the Court and not through any Advocate Commissioner. In the circumstance, the cross examination is not completed on that date, the Trial Court shall take up the suit on the next working date and complete the cross examination. This Court further observes and directs that in the event, the defendants fail to carry out the cross-examination, the Court shall close the examination of the plaintiff witness and proceed to the next stage of the suit.

7. Interim order passed earlier stands vacated.

8. The Registry is directed to convey the instant order to the learned Trial Court forthwith so that the learned Trial Court can fix the business of the Court accordingly.

9. With the above directions and observations, the instant petition stands disposed of.

JUDGE

Comparing Assistant