

GAHC010074042024



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

**Case No. : CRP(IO)/124/2024**

NIKHIL DEBNATH AND 4 ORS.

S/O- LATE PRAN CHANDRA DEBNATH, R/O- VILL.- TOJPUR, GOLLAKHIL,  
P.S. AND DIST. KARIMGANJ, ASSAM

2: PINTU DEBNATH

S/O- LATE PRAN CHANDRA DEBNATH  
R/O- VILL.- TOJPUR  
GOLLAKHIL  
P.S. AND DIST. KARIMGANJ  
ASSAM

3: RANTU DEBNATH

S/O- LATE PRAN CHANDRA DEBNATH  
R/O- VILL.- TOJPUR  
GOLLAKHIL  
P.S. AND DIST. KARIMGANJ  
ASSAM

4: PRANATI DEBNATH

S/O- LATE PRAN CHANDRA DEBNATH  
R/O- VILL.- TOJPUR  
GOLLAKHIL  
P.S. AND DIST. KARIMGANJ  
ASSAM

5: BABLI DEBNATH

W/O- SRI PINTU DEBNATH  
R/O- VILL.- TOJPUR  
GOLLAKHIL  
P.S. AND DIST. KARIMGANJ  
ASSA

VERSUS

CHANCHAL NATH  
S/O- LATE RAKESH CHANDRA NATH, R/O- VILL.- TOJPUR, GOLLAKHI, P.S.  
AND DIST. KARIMGANJ, ASSAM

**Advocate for the Petitioner : MR G N SAHEWALLA**

**Advocate for the Respondent : MR. R K JAIN**

**BEFORE  
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

**ORDER**

**08.04.2024**

Heard Mr. G N Sahewalla, learned senior counsel for the petitioners, assisted by Ms. S. Todi, Advocate as well as Mr. R Sarma, learned counsel appearing for the respondent/caveator.

This is an application filed under Article 227 of the Constitution of India challenging the order dated 16.02.2024 passed by the learned Civil Judge (Junior Division No. 3), Karimganj in T.S. No. 20/2015.

In the aforesaid case, the Circle Officer, Karimganj deputed four persons namely Shri Abhijit Paul, Shri Sushil Deb, Shri Dilip Kumar Das and Shri Uttam Roy to conduct a survey commission. Thereafter, at the time of examination, a notice was issued to the Circle Officer, Karimganj for examination. The Circle Officer deputed one person named Pranajit Namasudra, a staff of the office of the Circle Officer. He has stated in his evidence that he knew nothing about the facts of the case.

Therefore, the petitioners filed an application before the court below praying for re-issue the summons upon the Circle Officer to provide the materials witnesses. The trial court refused the prayer on the grounds that re-issue the summons would cause delay in disposing the case.

I have considered the submission made by the learned counsel for both sides.

The trial court failed to exercise judicial mind while passing the impugned order. Therefore, the impugned order dated 16.02.2024 passed by the learned Civil Judge (Junior Division No. 3), Karimganj in T.S. No. 20/2015 is set aside. The trial court is directed to re-issue summon to the Circle Officer, Karimganj asking either he himself or to produce one of the four persons mentioned above to go to Court to depose on behalf of the plaintiff as Court Witness.

With the above, the civil revision is disposed of.

**JUDGE**

**Comparing Assistant**