

GAHC010094652024



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

Case No. : I.A.(Civil)/1496/2024

ON THE DEATH OF NIRMAL BORKAKOTI HIS LEGAL HEIRS BIKRAM
BORKAKOTI AND ANR
S/O- LATE SIDDESWAR BORKAKOTI, R/O- BYE-PASS, AJANTA CINEMA
HALL, PS-PULIBAR, DISTRICT JORHAT, PIN 785006

2: SMTI LAKHIMI BORKAKOTI
W/O LATE LAKHI BORKAKOTI

R/O- BYE-PASS
AJANTA CINEMA HALL
PS-PULIBAR
DISTRICT JORHAT
PIN 785006

3: SRI AJUTSYA BORKAKOTI
S/O LATE LAKHI BORKAKOTI

R/O- BYE-PASS
AJANTA CINEMA HALL
PS-PULIBAR
DISTRICT JORHAT
PIN 785006

4: SMTI ARCHITA BORKAKOTI
D/O LATE LAKHI BORKAKOTI

R/O- BYE-PASS
AJANTA CINEMA HALL
PS-PULIBAR
DISTRICT JORHAT
PIN 785006

5: BIKRAM BORKAKOTI

S/O- LATE NIRMAL BORKAKOTI
R/O- KAKATI PUKHURI BYE-PASS

PS-PULIBAR
DISTRICT JORHAT
PIN 785006

6: RASHMIREKHA BORKAKOTI

D/O- LATE NIRMAL BORKAKOTI
R/O- PHUKAN NAGARM OPPOSITE PRAFULLA PHUKAN PATH
P.O. PHUKAN NAGAR
DISTRICT SIVASAGAR
PIN 785640

VERSUS

SMT RUMI BORKAKOTI AND ANR.
W/O LATE RAMESH BORKAKOTI R/O- BYE-PASS, AJANTA CINEMA HALL,
PS-PULIBAR, DISTRICT JORHAT, PIN 785006

2: DISTRICT AND SESSIONS JUDGE JORHAT

PO AND DIST JORHAT
ASSAM 78500

Advocate for the Petitioner : Mr. S. Dutta, Advocate

Advocate for the Respondent : Ms P. Bhattacharjee, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 29.05.2024

This is an application filed by the applicants who are the legal representatives of the respondent No. 1 Nirmal Borkakoti, who had expired on 24.02.2024.

2. The instant application ought to have been filed by the appellants. However, the same is filed by the legal representatives of the Respondent No.1 so that the adjudication of the instant Second Appeal is not delay. Accordingly this Court converts this instant application to an application under Order I Rule 10 (2) read with Sections

146 & 151 of the Code of Civil Procedure, 1908 for impleading the legal representatives of the respondent No. 1.

3. Ms. P. Bhattacharjee, the learned counsel appearing on behalf of the appellants submits that the appellants ought to have filed this application and she further submits that the right to sue against the legal representatives of the deceased respondent No. 1 also survives. Accordingly, this Court impleads the applicants to the accompanying appeal and strikes out the name of the respondent No. 1. The names of the applicants are mentioned in paragraph No. 7 of the instant application. They are arrayed as respondent No. 1(a) and 1(b).

4. The learned counsel appearing on behalf of the appellants is directed to file a fresh Memo of Parties on the basis of the instant order by 05.06.2024 and on the basis thereof, the Registry shall make necessary correction in the records as well as update the same in the CIS.

5. This Court further taking into account that the legal representatives of the respondent No. 1 have already been brought on record dispenses with the filing of an application by the appellants under Order XXII Rule 4 of the Code.

6. With the above, the instant application stands allowed.

JUDGE

Comparing Assistant