

GAHC010288012023



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

Case No. : I.A.(Civil)/2020/2024

ULASHI DAS AND 3 ORS.
W/O LATE KAMAL DAS
RESIDENT OF KANWACHAL
GUWAHATI
PO SILPUKHURI
PS CHANDMARI
DIST KAMRUP M ASSAM 781003

2: SRI MANOJ KUMAR DAS
S/O LATE KAMAL DAS
RESIDENT OF KANWACHAL
GUWAHATI
PO SILPUKHURI
PS CHANDMARI
DIST KAMRUP M ASSAM 781003

3: SRI ANOJ DAS.
S/O LATE KAMAL DAS
RESIDENT OF KANWACHAL
GUWAHATI
PO SILPUKHURI
PS CHANDMARI
DIST KAMRUP M ASSAM 781003

4: SMTI INDIRA DAS
D/O LATE KAMAL DAS
RESIDENT OF KANWACHAL
GUWAHATI

PO SILPUKHURI
PS CHANDMARI
DIST KAMRUP M ASSAM 781003
VERSUS

ON THE DEATH OF LATE HEMENDRA NATH DEKA
HIS LEGAL HEIRS

1.1:NEPOLIN DEKA

S/O LATE HEMENDRA NATH DEKA
RESIDENT OF HOUSE NO. 43
KANWACHAL
GUWAHATI
PO SILPUKHURI
PS CHANDMARI
DIST KAMRUP M ASSAM 781003

1.2:MARVELIN DEKA
S/O LATE HEMENDRA NATH DEKA
RESIDENT OF HOUSE NO. 43
KANWACHAL
GUWAHATI
PO SILPUKHURI
PS CHANDMARI
DIST KAMRUP M ASSAM 781003

2:SRI RAJEN DEKA

S/O LATE NAGEN DEKA

RESIDENT OF HOUSE NO. 43
KANWACHAL
GUWAHATI

PO SILPUKHURI
PS CHANDMARI
DIST KAMRUP M ASSAM 781003

3:ON THE DEATH OF RESPONDENT NO 3. KARUNA DEKA
HIS LEGAL HEIRS SMTI JYOTSNA TALUKDAR
WO LATE KARUNA DEKA
R/O VILLAGE UTTAR DIMORIA
PO DHOPGURI
PS KHETRI
DISTRICT KAMRUP
ASSAM
PIN 782403

4:SMTI KIRITI DEKA SINGHA
DO LATE KARUNA DEKA
R/O VILLAGE UTTAR DIMORIA
PO DHOPGURI

PS KHETRI
DISTRICT KAMRUP
ASSAM
PIN 782403

5:SRI MANIB RATNAM DEKA
SO LATE KARUNA DEKA
R/O VILLAGE UTTAR DIMORIA
PO DHOPGURI
PS KHETRI
DISTRICT KAMRUP
ASSAM
PIN 782403

Advocate for : MR. T DEURI
Advocate for : MR. A SATTAR appearing for ON THE DEATH OF LATE
HEMENDRA NATH DEKA

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 16.08.2024

Heard Mr. T. Deuri, learned counsel for the applicants. Also heard Mr. G. Imtiaz, learned counsel for the respondent Nos. 3(i) to 3(iii).

This application has been filed under Order XXII Rule 3(2) read with Section 151 of the Code of Civil Procedure, 1908 for setting aside the abatement of appeal on the death of the respondent No. 1, namely, Hemendra Nath Deka.

It is submitted by the learned counsel for the applicants that the respondent No. 1 had expired on 17.11.2023, however, due to communication gap, the said fact was not known to the learned counsel for the applicants and the applicants came to know about the death of the respondent No. 1 only on 15.05.2024 and thus there was a delay in filing the application for setting aside the abatement as well as for substituting the legal heirs of opposite party No. 1, namely, late Hemendra Nath Deka.

The learned counsel for the respondent Nos. 3(i) to 3(iii) who has not opposed the prayer for setting aside the abatement.

Considering the submissions made by the learned counsel for the parties as well as considering the grounds shown in the application, the abatement of the connected Regular Second Appeal No. 63/2022 against late Hemendra Nath Deka is hereby set aside and this interlocutory application is disposed of.

JUDGE

Comparing Assistant