

GAHC010102432024



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

Case No. : CRP(IO)/253/2024

NUR UDDIN AND ANR
SON OF LATE SOMSU ALI, R/O- VILL- SINGARIA, PO- SINGARIA BAZAR,
PS- NILAMBAZAR, DIST.- KARIMGANJ, ASSAM

2: SIRAJ UDDIN
SON OF LATE SOMSU ALI
R/O- VILL- SINGARIA
PO- SINGARIA BAZAR
PS- NILAMBAZAR
DIST.- KARIMGANJ
ASSA

VERSUS

KUTUB ALI AND 10 ORS
S/O- LATE AMRU MIYA, R/O- VILL- EAST LOWAIRPUWA (JALALNAGAR),
PO- HATIKHIRA, PS- BAZARICHERRA, DIST.- KARIMGANJ, ASSAM

2:ABDUL NOOR
S/O- YEAKUB ALI
R/O- VILLAGE AND PO SINGARIA
PS NILAMBAZAR
DISTRICT- KARIMGANJ

3:SOPIA BEGUM
W/O- LATE FAIZUR RAHMAN
VILL- EAST LOWAIRPUA
PO- HATIKHIRA
PS- BAZARICHERRA
DIST.- KARIMGANJ

4:ASMA BEGUM
W/O- MOIN UDDIN
VILL- SOIDKHANI

PO- MULLAGANJ BAZAR
PS- NILAMBAZAR
DIST.- KARIMGANJ

5:MOYNUL HAQUE
SON OF AFTAR ALI
R/O- VILLAGE AND PO KATHALTALI
PS- BAZARICHERRA
DIST- KARIMGANJ

6:FAIZUL HAQUE
SON OF AFTAR ALI
R/O- VILLAGE AND PO KATHALTALI
PS- BAZARICHERRA
DIST- KARIMGANJ

7:NAJRUL HAQUE
SON OF AFTAR ALI
R/O- VILLAGE AND PO KATHALTALI
PS- BAZARICHERRA
DIST- KARIMGANJ

8:HASON ALI
SON OF AFTAR ALI
R/O- VILLAGE AND PO KATHALTALI
PS- BAZARICHERRA
DIST- KARIMGANJ

9:THE STATE OF ASSAM
(NOTICE TO BE SERVED BY THE GOVERNMENT PLEADER)

10:THE DEPUTY COMMISSIONER
KARIMGANJ
PO
PS AND DIST- KARIMGANJ

11:THE CIRCLE OFFICER
NILAMBAZAR
PO
PS- NILAMBAZAR
DIST.- KARIMGANJ

Advocate for the Petitioner : MR. M A CHOUDHURY

Advocate for the Respondent : GA, ASSAM

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

24.07.2024

Heard Mr. A. Ahmed, learned counsel appearing for the petitioners. Ms. K. Phukan, learned counsel appears for Respondent Nos.9, 10 and 11.

2. This is an application under Article 227 of the Constitution of India challenging the order dated 30.11.2023 passed by the learned Civil Judge (Jr. Division) No.1, Karimganj in Misc Case No.484/2023 arising out of T.S. No.242/2021.

3. The plaintiff of the suit filed an application under Order VI Rule 17 of the Code of Civil Procedure praying for amendment of the pleadings.

4. The petitioners being the defendants, prayed for time to file an objection. The court below, on 16.11.2023, allowed the prayer of the petitioners and posted the case on 16.01.2024 for filing objection by the petitioners. Thereafter, the learned trial court corrected the date and posted the case on 30.11.2023.

5. The petitioners state that they were not aware of the fact that the date was changed. Therefore, on 30.11.2023, they could not appear and file the objection. The trial court, therefore, allowed the prayer of the respondent/plaintiff.

6. I have considered the submissions made by the learned counsel Mr. Ahmed.

7. I am of the considered opinion that the date was corrected subsequently. I have decided to agree with Mr. Ahmed that the petitioners did not have any knowledge about the fact.

8. Therefore, the impugned order is bad in law.

9. The impugned order dated 30.11.2023 passed by the learned Civil Judge (Jr. Division) No.1, Karimganj in Misc Case No.484/2023 arising out of T.S. No.242/2021, is set aside.

10. The learned trial court is directed to allow the present petitioners/defendants to file objection and after that the learned trial court shall decide and dispose of the case in accordance with the procedure as laid down by law.

With the above direction, the Revision Petition is disposed.

JUDGE

Comparing Assistant