

GAHC010105632023



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

Case No. : CRP(IO)/152/2023

NANDAN SINHA AND 3 ORS
SON OF LATE NANDA KUMAR SINHA,
PERMANENT RESIDENT OF VILLAGE AND P.O.- BHAKATPUR, MOUZA-
AMBIKAPUR, PT-VIII,
PARGONA- BARAKPAR, P.S.- SILCHAR,
DISTRICT- CACHAR, ASSAM- 788005.

2: UTTAM SINHA
SON OF LATE NANDA KUMAR SINHA

PERMANENT RESIDENT OF VILLAGE AND P.O.- BHAKATPUR
MOUZA- AMBIKAPUR
PT-VIII

PARGONA- BARAKPAR
P.S.- SILCHAR

DISTRICT- CACHAR
ASSAM- 788005.

3: MANJU SINHA
DAUGHTER OF LATE NANDA KUMAR SINHA

PERMANENT RESIDENT OF VILLAGE AND P.O.- BHAKATPUR
MOUZA- AMBIKAPUR
PT-VIII

PARGONA- BARAKPAR
P.S.- SILCHAR

DISTRICT- CACHAR
ASSAM- 788005.

4: KAMALABATI SINHA

DAUGHTER OF LATE NANDA KUMAR SINHA

PERMANENT RESIDENT OF VILLAGE AND P.O.- BHAKATPUR
MOUZA- AMBIKAPUR
PT-VIII

PARGONA- BARAKPAR
P.S.- SILCHAR

DISTRICT- CACHAR
ASSAM- 788005

VERSUS

PRADIP RAJ KUMAR AND ANR
S/O LATE BORA CHOWBA RAJKUMAR,
RESIDENT OF VILLAGE AND P.O.- BHAKATPUR,
MOUZA- AMBIKAPUR, PT-VIII,
PARGONA- BARAKPAR, P.S. SILCHAR,
DISTRICT- CACHAR, ASSAM- 788005.

2:PRANOY RAJKUMAR
S/O LATE BORA CHOWBA RAJKUMAR

RESIDENT OF VILLAGE AND P.O.- BHAKATPUR

MOUZA- AMBIKAPUR
PT-VIII

PARGONA- BARAKPAR
P.S. SILCHAR

DISTRICT- CACHAR
ASSAM- 788005

Advocate for the Petitioner : MR. B CHAKRAVARTY

Advocate for the Respondent : MR. P DAIMARY (R-1,2)

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

10.01.2024

Heard Mr. B. Chakravarty, learned counsel appearing for the petitioners. Also heard Mr. P. Deka, learned counsel representing the respondents.

This is an application under article 227 of the Constitution of India challenging the order dated 01.02.2023 passed by the learned Civil Judge No. 1, Cachar, Silchar, in Misc.(J) Case No. 172/2022 [I/C Misc. (J) Case No. 171/2022] arising out of T.S. 134/ 2014.

The respondents, as plaintiffs, filed T.S. 134/2014 seeking declaration of right, title and interest along with possession of a plot of land. The petitioners, being the defendants, filed their written statement. The suit was pending at the stage of cross-examination of plaintiffs witnesses. Thereafter, the plaintiffs stopped appearing in the court. Ultimately, the trial court dismissed the suit on account of non-prosecution.

Subsequently, after 256 days, the plaintiffs/respondents filed an application under Order 9 Rule IX of the Code of Civil Procedure. The petitioners being the defendants contested the said petition by filing objection. Finally, the trial court condoned the delay by imposing a cost of Rs.2,000/- to be paid to the present petitioners.

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

I have gone through the impugned order. I am of the considered opinion that the learned trial has exercised judicial discretion while condoning the delay though the delay was not properly explained.

Since the trial court has exercised judicial discretion, this court is not inclined to interfere with the order under the given circumstances of the case. Therefore, the plaintiffs/the present respondents shall pay a cost of Rs.10,000/- instead of Rs.2,000/- imposed by the trial court. Only after payment of the cost, the trial court shall proceed to dispose of the suit according to law.

With the aforesaid direction, the revision petition stands disposed of.

JUDGE

Comparing Assistant