

GAHC010111462023



2024:GAU-AS:12370

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

Case No. : CRP(IO)/153/2023

SHAHAR ALI
S/O LT. ANSU MIAH R/O VILL. NUMBERPARA PART 3 P.S ABHAYAPURI
DSIT. BONAIGAON ASSAM

VERSUS

ON THE DEATH OF KUJRAT ALI HIS LEGAL HEIR HASINA KHATUN AND 3
ORS
D/O LT KUJRAT ALI R/O NUMBERPARA PART 3 ABHAYPURI DIST.
BONGAIGAON ASSAM

1.2:ANJUWARA KHATUN @ AHMED
D/O LT KUJRAT ALI R/O NUMBERPARA PART 3 ABHAYPURI DIST.
BONGAIGAON ASSAM

1.3:ELIMA KHATUN @ AHMED
D/O LT KUJRAT ALI R/O NUMBERPARA PART 3 ABHAYPURI DIST.
BONGAIGAON ASSAM

2:THE STATE OF ASSAM
REP. BY THE DEPUTY COMMISSIONER
BONGAIGAON DIST BONGAIGAON ASSAM

3:CIRCLE OFFICER
SRIJANGRAM REVENUE CIRCLE P.O. AND P.S. ABHAYAPUR DIST.
BONGAIGAON ASSAM

4.1:ON THE DEATH OF HASEN ALI HIS LEGAL HEIRS BEGOM
D/O LT. HASEN ALI MIAH W/O MAJOM ALI VILL. SINGIMARI ISLAMPUR
P.S ABHAYAPURI DIST. BONGAIGAON ASSAM

4.2:JORINA KHATUN

D/O LT. HASEN ALI MIAH W/O TOPAJJAL HUSSAIN VILL. ABAYPUR TOWN
WARD NO. 4 TENGNAMARI P.S ABHAYAPURI DIST. BONGAIGAON ASSA

Advocate for the Petitioner : MR. B HALDAR, MR B DEORI,MR B KARDONG

Advocate for the Respondent : MR. B J MUKHERJEE, MS R SAHA

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 06-12-2024

Heard Mr. B. Haldar, learned counsel for the petitioner. I have also heard Mr. B.J. Mukherjee, learned counsel for the respondent No.1(i) to (iii).

By filing this application under Article 227 of the Constitution of India, the petitioner is challenging the order dated 3.2.2021 passed by the learned Munsiff, North Salmara, Abhayapuri in petition No.158/2021 arising out of the Title Suit No.37/2015.

By the said impugned order the learned trial Court closed the evidence of PW 1 and PW 2 on the ground that the witnesses failed to appear despite of giving an opportunity to appear for cross-examination.

By this application, the petitioner prays for providing one last opportunity to produce the witness No. 1 and 2 for cross-examination by the defendants. The learned counsel for the petitioner submits that by allowing the witness for cross-examination, no prejudice would cause to the respondent.

The learned counsel for the respondents has no serious objection to the prayer made by the petitioner. He fairly submits that one last opportunity

may be given to the plaintiff's witness for their cross-examination.

In view of the above and as agreed upon by the parties, the impugned order dated 3.2.2021 passed by the learned Munsiff, North Salmara, Abhayapuri in petition No.158/2021 arising out of the Title Suit No.37/2015 is hereby quashed and set aside.

Consequently, the plaintiff witness Nos. 1 and 2 shall be allowed to be cross-examined by the defendant by fixing date for their appearance. Parties are directed to report before the trial Court on 6.1.2025 for further necessary orders.

This petitions stands disposed of.

JUDGE

Comparing Assistant