

GAHC010127142023



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

Case No. : MC/49/2023

SATTAR SINGH BASUMATARY @ SANTAR SINGH BASUMATARY
S/O LATE TARANI BASUMATARY, R/O DOLAIGAON (BEHIND NORTH
BONGAIGAON BUS STAND), P.O. AND P.S. BONGAIGAON, DIST.
BONGAIGAON, ASSAM, PIN-783380

VERSUS

ON THE DEATH OF AMAR CHAND PINCHA
HIS LEGAL HEIRS AND LEGAL REPRESENTATIVES NAMELY-

1.1:SMT. MANGI DEVI PINCHA
W/O LATE AMAR CHAND PINCHA
R/O CHAPAGURI ROAD
NORTH BONGAIGAON
P.O.-BONGAIGAON
DIST-ASSAM
PIN-783380
REPRESENTED BY CONSTITUTED ATTORNEY SRI JOGENDRA CHANDRA
BAZUMATARY
S/O LATE RATIRAM BASUMATARY
R/O VILL-CHAPAGURI NO. 2
P.S.-DHALIGAON
DIST-CHIRANG
ASSAM
PIN-783380

1.2:INDU DEVI SANCHETI
D/O LATE AMAR CHAND PINCHA
R/O CHAPAGURI ROAD
NORTH BONGAIGAON
P.O.-BONGAIGAON
DIST-ASSAM

PIN-783380
REPRESENTED BY CONSTITUTED ATTORNEY SRI JOGENDRA CHANDRA
BAZUMATARY
S/O LATE RATIRAM BASUMATARY
R/O VILL-CHAPAGURI NO. 2
P.S.-DHALIGAON
DIST-CHIRANG
ASSAM
PIN-783380

1.3:SMT. MONIKA JAIN
D/O LATE AMAR CHAND PINCHA
R/O CHAPAGURI ROAD
NORTH BONGAIGAON
P.O.-BONGAIGAON
DIST-ASSAM
PIN-783380
REPRESENTED BY CONSTITUTED ATTORNEY SRI JOGENDRA CHANDRA
BAZUMATARY
S/O LATE RATIRAM BASUMATARY
R/O VILL-CHAPAGURI NO. 2
P.S.-DHALIGAON
DIST-CHIRANG
ASSAM
PIN-78338

Advocate for the Petitioner : MR. A C SARMA

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

17.07.2024

- 1.** Heard Mr. A.C. Sarma, learned Senior Counsel, assisted by Mr. G. Bharadwaj, learned counsel for the appellant. Also heard Mr. B.J. Mukherjee, learned counsel appearing for the respondents.
- 2.** This application under Order XLI Rule 19 of the Code of Civil Procedure has been filed by the applicant for readmission of Regular Second Appeal No.

273/2014, which was dismissed by this Court for non-prosecution on 28.03.2022.

3. Learned Senior Counsel for the appellant has submitted that the reasons for failure on the part of the appellant to appear before the Court on 28.03.2022 has been sufficiently explained in Paragraph No. 3 of the application under Order XLI Rule 19 of the Code of Civil Procedure filed by the appellant.

4. I have gone through the said reasons mentioned by the appellant and it appears that the earlier conducting counsel for the appellant, namely, Mr. B.R. Dey, (Senior Advocate) and Mr. Pronoy Sen, who was assisting the learned Senior Counsel both have expired during the pendency of the Regular Second Appeal No. 273/2014, due to which there was a communication gap with the appellant, so that they could not engage a new set of counsels and which cause the default on the day when the second appeal was dismissed.

5. Learned counsel appearing for the respondents, who has appeared in this case has submitted that considering the reasons shown by the appellant, he does not have any objection on readmission of the appeal. He has also fairly submitted that he is also not pressing for any cost and has only prayed for expeditious disposal of the second appeal after its readmission as same has been pending since the year 2014.

6. Considering the submissions made by the learned Senior Counsel as well as learned counsel for the respondents as well as the cause shown in Paragraph No. 3 of the petition, this Court is of considered opinion that the appellant has shown sufficient cause for which he was prevented from appearing before the Court when the appeal was called out for hearing on 28.03.2022.

7. For the reasons aforesaid, this Misc. Case is allowed and Regular

Second Appeal No. 273/2014 is readmitted.

8. The Registry to readmit and to list the Regular Second Appeal No. 273/2014 for order(s) after 2(two) weeks on a date to be fixed by it.

JUDGE

Comparing Assistant