

GAHC010144362023



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

Case No. : MC/55/2023

MAHENDRA BORDOLOI @ NATH BORDOLOI
S/O LATE GUNAKANTA BORDOLOI, VILL. BANGTHAI, MOUZA-
KASOMARI, DIST. NAGAON, ASSAM, PIN-782001

VERSUS

BIMAL CHANDRA BORA and 10 ORS
S/O LATE RANJIT BORA, BY CASTE HINDU, BY OCCUPATION
CULTIVATOR, R/O VILL. NO. 2 GADARBORI, MOUZA-HATISUNG, DIST.
NAGAON, ASSAM, PIN-782142

2:BANGTHAI NAMGHAR SAMITEE

PRESIDENT SRI JOGAL RAJBANGSI
S/O LATE BHOGSINGH RAJBANGSHI

3:JOGAL RAJBANGSHI

S/O LATE BHOGSINGH RAJBANSHI
PRESIDENT BANGTHAI NAMGHAR SAMITEE

4:LAMBODHAR RAJANGSHI
S/O LATE BHAKOT SINGH RAJBONSHI
SECRETARY
BANGTHAI NAMGHAR SAMITY ALL ARE RESIDENT OF VILL. BANGTHAI
MOUZA-KASOMARI
DIST. NAGAON
ASSAM
PIN-782001

5:SMTI NAMAI BHUYAN

D/O LATE ADIRAM PATIA
VILL. NO. 2 GEDARBARI
MOUZA-HATISUNG
DIST. NAGAON
ASSAM
PIN-782142

6:SMTI. GIRIBALA SAIKIA

W/O MAHESWAR SAIKIA
VILL. CHAMUA KOCHAR GAON
MOUZA-HATISUNG
DIST. NAGAON
ASSAM
PIN-782002

7:SMTI BINA BORDOLOI
W/O LATE BIRAN BORDOLOI
VILL. BANGTHAI
MOUZA-HATISUNG
PIN-782001

8:DEBEN BORDOLOI

S/O KHARGESWAR BORDOLOI

9:MENESWAR BORDOLOI

10:GANESH BORDOLOI

11:MOHIT BORDOLOI

ALL ARE S/O LATE MONIRAM BORDOLOI
ALL ARE R/O BANGTHAI
MOUZA-KASOMARI
DIST. NAGAON
ASSAM
PIN-78200

Advocate for the Petitioner : MR. R SARMA, MRS.G M D BAISHYA

Advocate for the Respondent : MR. S CHOUHAN,

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 27.11.2024

Heard Mr.R.Sarma, learned counsel for the applicant and Mr. S.Chauhan, learned counsel for the opposite party No.1.

By filing this application under Order 9 Rule 4 r/w Section 151 of the Civil Procedure Code, 1908, the applicant has prayed for restoration of the connected Regular Second Appeal which was dismissed for default on 20.06.2023.

Learned counsel for the applicant submits that due to reeling flood situation, the learned counsel could not appear on 20.06.2023 and the son of the learned counsel was also sick and as such, the applicant was prevented with sufficient causes for not appearing on 20.06.2023. The learned counsel for the applicant submits that there is no deliberate negligence or wilful absence of the learned counsel for not appearing before the court and as such, if the appeal is not restored, the applicant would suffer irreparable loss and injury.

Learned counsel for the opposite party has no objection against the prayer of the applicant for restoration of the connected Regular Second Appeal.

It appears from the record that on 25.05.2023 the applicant did not appear before this court, subsequently, on 20.06.2023, the applicant remained absent for which the appeal was dismissed for default.

Considering the submission made by the learned counsel for the parties, the case being RSA No.105/2012 is restored to file subject to payment of cost of Rs.1000/-. The amount of cost be deposited in the account of Gauhati High Court Legal Services Committee at Principal Seat.

With the above observation, the misc. case stands disposed of.

JUDGE

Comparing Assistant