

GAHC010148012023



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

Case No. : CRP(IO)/215/2023

ABUL HUSSAIN LASKAR AND 3 ORS
S/O LATE HABIBUR RAHMAN, R/O VILL-BARJUARI (BERENGA PART-V),
P.O.-BETHUKANDI, P.S.-SILCHAR, PIN-788005, DIST-CACHAR, ASSAM

2: SAKHA MIA LASKAR
S/O LATE MANIK MIA
R/O VILL-BARJUARI (BERENGA PART-V)
P.O.-BETHUKANDI
P.S.-SILCHAR
PIN-788005
DIST-CACHAR
ASSAM

3: ATABUR RAHMAN LASKAR
S/O LATE FURKAN ALI LASKAR
R/O VILL-BARJUARI (BERENGA PART-V)
P.O.-BETHUKANDI
P.S.-SILCHAR
PIN-788005
DIST-CACHAR
ASSAM

4: PATHU RAJA LASKAR
S/O LATE FURKAN ALI LASKAR
R/O VILL-BARJUARI (BERENGA PART-V)
P.O.-BETHUKANDI
P.S.-SILCHAR
PIN-788005
DIST-CACHAR
ASSA

VERSUS

JALAL UDDIN LASKAR

S/O LATE ABDUL LATIF LASKAR, A R/O VILL-BERENGA PART-V, P.O.-
BETHUKANDI, P.S.-SILCHAR, DIST-CACHAR, PIN-788005, ASSAM

Advocate for the Petitioner : MR. S D PURKAYASTHA, MS S.S.BORA

Advocate for the Respondent : MR. R DE, MS. N BORDOLOI, MS. D PATHAK

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

O R D E R

09.08.2024

Heard Mr. S.D. Purkayastha, learned Counsel, for the petitioner and Mr. R. De, learned counsel for the respondent.

2. Correctness or otherwise of the order, dated 24.05.2023, passed by the learned Addl. District & Sessions Judge (FTC) Cachar, Silchar in Special (L/G) case No. 21/2019, is challenged in this petition, under Article 227 of the Constitution of India, by four petitioners, namely, Abdul Hussain Laskar, Sakha Mis Laskar, Atabur Rahman Laskar and Pathu Raja Laska.

3. It is to be noted here that vide impugned order, dated 24.05.2023, the learned trial court had rejected the prayer of the petitioner to accept the written statement.

4. Mr. Purkayastha, the learned Counsel for the petitioner, submits that the learned trial court had arbitrarily rejected the prayer of the petitioner to file written statement, which was already filed and on the record. Mr. Purkayastha submits that for framing the issues in the case, written statement is a must without which the matter could be adjudicated properly. Therefore, Mr. Purkayastha has contended to allow the petition.

5. Per contra, Mr. R. De, the learned counsel for the respondent submits that he has no objection if the petition is allowed subject to payment of adequate cost.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the impugned order, dated 24.05.2023.

7. In view of the submissions of learned Advocates of both sides and as agreed this court is inclined to allow the petition. The impugned order dated 24.05.2023, so far it relates to the rejection of the prayer of the petitioners, for accepting the written statement, is set aside and quashed. However, the petitioners have to pay a sum of Rs.10,000/ (Rupees ten thousand) only, being the cost, to the respondent.

8. It is further provided that on deposition of cost by the petitioners, the learned trial court shall take the written statement, submitted by the petitioner, on board and thereafter, shall proceed to hear and dispose of the case in accordance with law.

9. In terms of above this CRP stands disposed of.

JUDGE

Comparing Assistant