

GAHC010155312024



2024:GAU-AS:11596

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

Case No. : CRP(IO)/280/2024

SARITA DEVI SARAF @ SABITA DEVI SARAF
W/O- BIJAY KUMAR SARAF, R/O- WARD NO.5, DHUBRI TOWN, P.O., P.S.
AND DISTRICT- DHUBRI, ASSAM- 783301

VERSUS

SHREE BISHNU CARRIER AND 5 ORS
A PARTNERSHIP FIRM REPRESENTED BY ITS PARTNERS AND
AUTHORIZED REPRESENTATIVE ONE PARTA PRATIM PAUL, S/O- LATE
SUDHIR KRISHNA PAUL, AGED ABOUT 51 YEARS, RESIDENT OF WARD
NO.13, SHANTI NAGAR OF DHUBRI TOWN, P.O. A.M.CO. ROAD, P.S. AND
DIST- DHUBRI, ASSAM, PIN- 783323, MOBILE NO- 9435117284

2:BHAGWANI DEVI SARAF
W/O- LATE NIVAS SARAF R/O- WARD NO. 5
DHUBRI TOWN
P.O.
P.S. AND DISTRICT- DHUBRI
ASSAM- 783301

3:CHAMPA DEVI
W/O- TULARAM SARAF R/O- WARD NO. 5
DHUBRI TOWN
P.O.
P.S. AND DISTRICT- DHUBRI
ASSAM- 783301

4:MAHAVIR PRASAD SARAF
S/O- LATE NATHMAL SARAF R/O- WARD NO. 5
DHUBRI TOWN
P.O.
P.S. AND DISTRICT- DHUBRI
ASSAM- 783301

5:THE STATE OF ASSAM
REPRESENTED BY DISTRICT COLLECTOR
DHUBRI
P.O.
P.S. AND DISTRICT- DHUBRI
ASSAM
PINCODE- 783301

6:THE SENIOR SUB-REGISTRAR
DHUBRI
P.O.
P.S. AND DISTRICT- DHUBRI
ASSAM
PINCODE- 78330

Advocate for the Petitioner : MR SISHIR DUTTA, MR D J MEDHI,MR S KHOUND

Advocate for the Respondent : GA, ASSAM, MS. A BARMAN(R-1),MR. K BHATTACHARJEE (R-1),MR H BETALA (R-4),MS. D KALITA(R-4),MR. R K AGARWALA(R-4)

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 25.11.2024

Heard Mr. S. Dutta, learned Senior Counsel assisted by Mr. D. J. Medhi, learned counsel for the petitioner; Mr. A. Barman, learned counsel for the respondent No.1; Mr. H. Betala, learned counsel for the respondent No.4 and Mr. T. R. Gogoi, learned counsel for the respondent Nos. 5 and 6.

The Office note dated 04.11.2024, indicates that notice upon respondent Nos. 2 & 3 could not be served as they have suffered demise.

Mr. Dutta, learned Senior Counsel for the petitioner submits that he will take necessary step for impleading the legal heirs of respondent Nos. 2 & 3. Later on, Mr. H. Betala, learned counsel for the respondent No.4, submits that vide impugned order dated 06.07.2024, in Title Suit No. 31/2024, the learned Trial Court without affording any opportunity of being heard to the present

petitioner, allowed the amendment petition on the same day and also struck out the name of respondent Nos. 2,3 & 4. And as such, Mr. Betala, submits that the impugned order may be set aside and the matter may be remanded to the learned Trial Court to afford an opportunity of being heard to the petitioner and thereafter, to pass necessary order.

Mr. Dutta, learned Senior Counsel for the petitioner submits that he has no objection in the event of setting aside the impugned order and remanding the matter to the learned Trial Court.

Having heard the submissions of learned counsel for both the parties, I have carefully gone through to the petition and the documents placed on record and also perused the impugned order dated 06.07.2024.

As agreed by learned advocates of both the parties, the impugned order dated 06.07.2024 passed by the learned Civil Judge (Senior Division), Dhubri in Title Suit No. 31/2024, stand set aside and the matter is remanded to the learned Trial Court to afford opportunity of being heard to the petitioner in the amendment petition and also to allow him to file objection in the amendment petition and thereafter, to hear both the parties and to pass necessary order.

In terms of above, this CRP(IO) stands disposed of.

JUDGE

Comparing Assistant