

GAHC010176352022



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

Case No. : CRP/117/2022

TULU DEY
W/O- SRI DULAL DEY, R/O- MATRI APARTMENT, FLAT NO. 2-A,
BARTHAKUR MILL ROAD, ULUBARI, GUWAHATI, DIST. KAMRUP(M),
ASSAM, PIN- 781007.

VERSUS

MADHU AGARWAL AND 3 ORS.
W/O- PANKAJ AGARWAL, R/O- AASTHA APARTMENT, FLAT NO. 3-A,
REHABARI, GUWAHATI, KAMRUP(M), ASSAM, PIN- 781008.

2:M/S. GARGI AND ASSOCIATES PRIVATE LIMITED
A COMPANY INCORPORATED UNDER THE COMPANIES ACT
1956 HAVING ITS REGISTERED OFFICE AT FLAT NO. 2-C
ARATI PLAZA
CHANDMARI
GUWAHATI-3
DIST. KAMRUP(M)
ASSAM
REPRESENTED BY ITS DIRECTORS.

3:CHABI BHORALEE @ BHARALI
DIRECTOR OF M/S. GARGI AND ASSOCIATES PRIVATE LIMITED
RESIDENT OF NIRUPAMA APARTMENT
TARUN NAGAR
GUWAHATI
KAMRUP(M)
ASSAM

4:UPASANA BHORALEE @ BHARALI
DIRECTOR OF M/S. GARGI AND ASSOCIATES PRIVATE LIMITED
RESIDENT OF NIRUPAMA APARTMENT

TARUN NAGAR
GUWAHATI
KAMRUP(M)
ASSA

For the petitioner(s) : Mr. T. Mahanta, Sr. Advocate

For the respondent (s) : Mr. R. Ali, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

19.06.2024

Heard Mr. T. J. Mahanta, the learned senior counsel assisted by Mr. P. K. Bordoloi, the learned counsel for the petitioner and Mr. R. Ali, the learned counsel appearing on behalf of the respondent.

2. The learned senior counsel submits that in view of the Real Estate (Regulation and Development) Act, 2016 which came into force in the year 2017 and the dispute raised in the suit would have been better resolved before the Authority under the said Act of 2016, the application was filed for referring the dispute in Title Suit No.381/2018 to the RERA Authority. The learned senior counsel for the petitioner further submitted that the learned Trial Court however rejected the said application and it is under such circumstances, the instant application has been filed. The learned senior counsel for the petitioner fairly submits that in terms with the RERA Act, some of the prayers made in the suit cannot be adjudicated.

3. Be that as it may, the petitioner is also aggrieved by the action of the builder. The learned senior counsel for the petitioner therefore submits

that he would not like to pres the instant petition, but withdrawal of the instant petition should not preclude the petitioner to avail such remedies otherwise available under the law.

4. Taking into account the above, this Court therefore closes the instant petition on withdrawal.

5. It is however made clear that withdrawal of the instant petition shall not preclude the petitioner herein to avail other remedies which are available under the law more particularly under the Real Estate (Regulation and Development) Act, 2016, if so advised.

6. The interim order so passed on 21.11.2022 stands vacated and as the parties are duly represented today, they are directed to appear before the learned Trial Court on 05.07.2024.

JUDGE

Comparing Assistant