

GAHC010209192024



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

Case No. : CRP(IO)/431/2024

ON THE DEATH OF BISWAJIT SUKUL, HIS LEGAL HEIRS KUSUM SUKUL
AND 11 ORS

W/O- LATE BISWAJIT SUKUL, R/O- CENTRAL ROAD, SILCHAR, P.O. AND
P.S. SILCHAR, PIN- 788001, DIST. CACHAR, ASSAM

2: SMT. ANURADHA SUKLA
D/O- LATE BISWAJIT SUKUL
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

3: SMT. ANUREKHA CHOUDHURY (SHUKLA)
D/O- LATE BISWAJIT SUKUL
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

4: SMT. PRIYANKA SHUKLA
D/O- LATE BISWAJIT SUKUL
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

5: SMT. MANJU GURSHANI
W/O- DHARAM RAM GURSHANI

R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

6: SMT. SANGITA KURMI
W/O- BABUL KURMI
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

7: SMT. SAROJ SUKUL
W/O- LATE SARABJIT SUKUL
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

8: SMT. PUNAM SHUKLA
D/O- LATE SARANJIT SUKUL
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

9: SMT. SIBANI SUKUL
W/O- LATE BIKRAM SUKUL
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

10: SMT. GEETA SUKUL
W/O- LATE AMARJIT SUKUL
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR

PIN- 788001
DIST. CACHAR
ASSAM

11: DIPAK SUKUL
S/O- LATE AMARJIT SUKUL
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

12: SMT. GOURI SUKUL
W/O- MANISH SINGH
D/O- LATE AMARJIT SUKUL
R/O- CENTRAL ROAD
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSA

VERSUS

SAKUNTALA SARDA AND 25 ORS.
W/O- LATE SHIV SANKAR SARDA, R/O- JANIGANJ BAZAR, SILCHAR, P.O.
AND P.S. SILCHAR, PIN- 788001, DIST. CACHAR, ASSAM

2: SUNIL SARDA
S/O- LATE SHIV SANKAR SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

3: SMT. MEERA SARDA
W/O- LATE SUJIT SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

4: SMT. SHIVANI SARDA

D/O- LATE SUJIT SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

5:SMT. SHREYA SARDA
D/O- LATE SUJIT SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

6:LILA DEVI SARDA
W/O- LATE GOURI SANKAR SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

7:RAMESH SARDA
S/O- LATE GOURI SANKAR SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

8:MAHESH SARDA
S/O- LATE GOURI SANKAR SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

9:UMESH SARDA
S/O- LATE GOURI SANKAR SARDA
R/O- JANIGANJ BAZAR
SILCHAR

P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

10:SUNITA SARDA
D/O- LATE GOURI SANKAR SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

11:VINITA SARDA
D/O- LATE GOURI SANKAR SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

12:RAVI SANKAR SARDA
S/O- LATE MULTAN SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

13:SANGEETA SARDA
W/O- LATE SANTOSH SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

14:SUMEET SARDA
S/O- LATE SANTOSH SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR

ASSAM

15:PRASANT SARDA
S/O- LATE SANTOSH SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

16:ON THE DEATH OF CHANDRA SARDA
HER LEGAL HEIRS KUMAR BAGRI
S/O- LATE CHANDRA SARDA AND GOKUL CHAND BAGRI
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

17:MANISHA BAGRI
D/O- LATE CHANDRA SARDA AND GOKUL CHAND BAGRI
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

18:SMT. INDU SARDA
D/O- LATE MULTAN CHAND SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

19:SMT. USHA SARDA
D/O- LATE MULTAN CHAND SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

20:SMT. SEEMA SARDA
D/O- LATE MULTAN CHAND SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

21:SMT. NEEMA SARDA
D/O- LATE MULTAN CHAND SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

22:SMT. ASHA SARDA
D/O- LATE MULTAN CHAND SARDA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

23:ON THE DEATH OF UMA TAPARIA
HER LEGAL HEIRS PRAHLAD DAS TAPARIA
S/O- SRI PRAHLAD DAS TAPARIA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

24:MANISH TAPARIA
S/O- SRI PRAHLAD DAS TAPARIA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

25:ASISH TAPARIA
S/O- SRI PRAHLAD DAS TAPARIA

R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM

26:RISHI TAPARIA
S/O- SRI PRAHLAD DAS TAPARIA
R/O- JANIGANJ BAZAR
SILCHAR
P.O. AND P.S. SILCHAR
PIN- 788001
DIST. CACHAR
ASSAM (SL. NOS. 1 TO 26 ALL ARE LEGAL HEIRS OF LATE SHIV SANKAR
SARDA)

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

Advocate for the Respondent : ,

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER**

28.10.2024

Heard Mr. S.D. Purkayastha, learned counsel for the petitioners.

2. By this petition under Article 227 of the Constitution of India, the petitioners have put to challenge the correctness or otherwise of the order dated 20.09.2024 passed by the learned Civil Judge (Junior Division) No.2, Cachar, Silchar, in Misc.(J) Case No.138/2024, arising out of Title Execution Case No.55/2023.

3. It is to be noted there that vide impugned order dated 20.09.2024, the learned Civil Judge (Junior Division) No.2, Cachar, Silchar, has directed to issue notice to the absentee defendants and also kept the Title Execution Case No.55/2023 in abeyance, till

disposal of Misc.(J) Case No.138/2024.

4. Mr. Purkayastha, learned counsel for the petitioners submits that the petitioners are decree-holders in Title Execution Case No.55/2023, arising out of the Title Suit No.189/1977. Mr. Purkayastha, further submits that after getting the decree in Title Suit No.189/1977, the petitioners had instituted one Title Execution Case No.55/2023, on 03.08.2023, and during the pendency of the said execution case, the respondents herein have filed a petition under Section 47, read with Section 151 CPC, upon which, the learned Executing Court has registered a Misc.(J) Case No.138/2024. In the said Misc.(J) case, the present petitioners have filed an objection, but the learned Executing Court vide impugned order dated 20.09.2024, has directed to issue notice to the absentee defendants and also kept the Title Execution Case No.55/2023 in abeyance.

5. Mr. Purkayastha, learned counsel for the petitioners further submits that the issues raised in the petition under Section 47, read with Section 151 CPC, has already been adjudicated by Hon'ble Supreme Court and as such, there is nothing to be adjudicated in the said petition which is filed only to delay the execution of the decree and the said petition ought to have been dismissed by the learned Executing Court. But instead of doing so, the learned Trial Court has directed to issue notice to the absentee defendants, who are the decree-holders and who were all along represented by the engaged counsel and thereby cause delay in disposal of the execution case and, as such, the impugned order so passed by the learned Executing Court is illegal and arbitrary and therefore, it is contended to be set it aside.

6. Having heard the submission of Mr. Purkayastha, learned counsel for the petitioners, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 20.09.2024, and also gone through the Petition No.927/2024 under Section 47, read with Section 151 CPC and the objection petition filed by the present petitioners dated 31.08.2024.

7. It appears that the title suit was instituted in the year 1977 and since then several years elapsed and ultimately the same was decreed on 31.03.2022, by the Appellate Court.

8. Further, it appears that against the said judgment and decree dated 31.03.2022, one revision petition being CRP No.67/2022 was preferred before this Court and the same was dismissed by this Court vide judgment and order dated 23.05.2023 and thereafter, the respondents herein have preferred one SLP before the Hon'ble Supreme Court, being Special Leave to Appeal (C) No.27393/2023 and the same has been dismissed vide order dated 19.07.2024. That being the position, the judgment and decree dated 31.03.2022 has attained finality and thereafter, the petitioners herein have instituted the execution proceeding, being Title Execution Case No.55/2023. In the said execution proceeding the respondents herein being the judgment-debtors have filed on petition under Section 47, read with Section 151 of the CPC and the present petitioners have filed their objection.

9. Further, it appears that the petitioners herein are decree-holders and they were represented by their counsel before the learned Executing Court and that being the position, there was no requirement of issuance of notice to them. The matter has already been delayed by several years. In that view of the matter, this Court is of the view that the impugned order dated 28.09.2024, fails to withstand the legal scrutiny and therefore, the same stands set aside and quashed.

10. It is provided that the learned Executing Court shall proceed to hear and dispose of the Misc.(J) Case No.138/2024 in Title Execution Case No.55/2023, in accordance with law, as soon as practicable.

11. The learned counsel for the petitioners, however, submits that a direction may be issued to the learned Trial Court to dispose of the petition under Section 47 read with Section 151 of the CPC, within a period of 2(two) months from today.

12. I have find substance in the submission of Mr. Purkayastha, learned counsel for the petitioners.

13. Accordingly, it is provided that the learned Executing Court shall make an endeavour to dispose of the petition under Section 47 read with Section 151 of the CPC within a period of 2(two) months from the date of receipt of a certified copy of this order. The petitioners shall obtain a certified copy of this order and place the same before the learned Executing Court.

14. In terms of above, the civil revision petition stands disposed of at the motion stage itself.

Sd/- Robin Phukan
JUDGE

Comparing Assistant