

GAHC010211702023



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

**Case No. : CRP(IO)/309/2023**

PRADIP CHANDRA BHATTACHARYA AND 3 ORS  
S/O LATE RAMESH CHANDRA BHATTACHARJEE, R/O WARD NO. 6 NEAR  
TEZPUR ELECTRICITY BOARD (OLD POWER HOUSE), TEZPUR-784001,  
P.O.-TEZPUR, P.S.-TEZPUR SADAR, DIST- SONITPUR, ASSAM

2: MRINAL KANTI BHATTACHARJEE  
S/O LATE RAMESH CHANDRA BHATTACHARJEE  
R/O WARD NO. 6 NEAR TEZPUR ELECTRICITY BOARD (OLD POWER  
HOUSE)  
TEZPUR-784001  
P.O.-TEZPUR  
P.S.-TEZPUR SADAR  
DIST- SONITPUR  
ASSAM

3: SMTI. KALPANA BHATTACHARYA  
D/O LATE RAMESH CHANDRA BHATTACHARJEE  
R/O WARD NO. 6 NEAR TEZPUR ELECTRICITY BOARD (OLD POWER  
HOUSE)  
TEZPUR-784001  
P.O.-TEZPUR  
P.S.-TEZPUR SADAR  
DIST- SONITPUR  
ASSAM

4: SMTI. RATNA BHATTACHARYA  
D/O LATE RAMESH CHANDRA BHATTACHARJEE  
R/O WARD NO. 6 NEAR TEZPUR ELECTRICITY BOARD (OLD POWER  
HOUSE)  
TEZPUR-784001  
P.O.-TEZPUR  
P.S.-TEZPUR SADAR  
DIST- SONITPUR  
ASSA

VERSUS

LAL BABU SAH  
S/O LATE LAKHI SAH, R/O WARD NO. 6 NEAR TEZPUR ELECTRICITY  
BOARD (OLD POWER HOUSE), TEZPUR-784001, P.O.-TEZPUR, P.S.-TEZPUR  
SADAR, DIST- SONITPUR, ASSAM

**Advocate for the Petitioner** : MR. S BISWAS

**Advocate for the Respondent** : MR. R B SAHU

**BEFORE**  
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 29.05.2024**

This is an application under Article 227 of the Constitution challenging the order dated 10.08.2023 passed in Title Suit No.90/2014.

2. This Court upon perusal of the impugned order 10.08.2023 is shocked and surprised in the manner in which the said order has been passed *inasmuch as*, the same infringes on the judicial propriety. The reason for which this Court makes this observation is that an application was filed for calling for the records pertaining to Misc.(J) Case No.155/2014, which is pending before the Court of the learned Civil Judge (Junior Division) No.1 Sonitpur at Tezpur in Title Suit No.90/2014. This application was allowed thereby calling for the records of Misc. (J) Case No.155/2014 pending before the Court of the learned Civil Judge (Junior Division) No.1 Sonitpur, at Tezpur, fixing 28.08.2023.

3. However, more surprisingly, the records of Misc.(J) Case No.155/2014 immediately was received by the learned Trial Court on the same day i.e. 10/08/2023. The learned Trial Court then compared the records of the Misc.(J) Case No.155/2014 and again sent it back on the same date itself. It is also seen that vide the same order some other proceedings have also been disposed of. However, this Court is not concerned with the others. But, as regards the calling of the records of Misc.(J) Case No.155/2014 and then comparing the said records and again sending it back in the manner in which it was done reflects very poorly in the matter of judicial propriety and fairness in the proceedings. Accordingly this Court interferes with the order dated 10.08.2023 to the said extent and accordingly directs the Court of the learned Civil Judge (Junior Division) No.2 to call for the records of Misc.(J) Case No.155/2014 and then by fixing a particular date and on that date upon receipt of the records in presence of both the counsels the exhibits, if any, be marked.

4. Accordingly, this Court, therefore, disposes of the instant petition with the above observation and further directs the learned Trial Court to proceed with the suit, after observing the above formalities as so directed.

5. Taking into account that both the parties are duly represented, they are directed to appear before the learned Trial Court on 19.06.2024.

**JUDGE**

**Comparing Assistant**