

GAHC010219572023



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

Case No. : Intest.Cas./6/2023

NAYAN RAY
W/O LATE GHANASHYAM RAY,
VILL.- VHASHAKHUTA, P.O.- SRIJANGRAM, P.S.- ABHAYAPURI, DIST.-
BONGAIGAON, ASSAM.

VERSUS

KAUSHIK RAY
S/O LATE GHANASHYAM RAY,
VILL.- VHASHAKHUTA, P.O.- SRIJANGRAM, P.S.- ABHAYAPURI, DIST.-
BONGAIGAON, ASSAM, PIN- 783380.

Advocate for the Petitioner : MR. B J GHOSH, MR. DILIP DEY

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 31.07.2024

Heard Mr. B.J. Ghosh, learned counsel for the appellant.

This is an Appeal under Section 384 of Indian Succession Act, 1925 challenging the impugned order dated 28.06.2023 passed by the Learned

Additional District Judge, North Salmara, Abhayapuri in Misc. (S/C) Case No.03/2023.

After the death of her husband, the appellant filed an application under Section 372 of the Indian Succession Act, 1925 praying for issue of a Succession certificate for receiving money that left behind her deceased husband.

The Court below simply held that the said Court did not have any jurisdiction to entertain such an application and the said application and the said application was dismissed.

I have considered the submission of Mr. Ghosh.

The Trial Court has committed an error, an Additional District Judge is also a District Judge within the meaning of District Judge as mentioned under Section 371 of the Indian Succession Act, 1925.

The impugned order is set aside the case is remanded to the Court below and it is directed that the Court below shall freshly consider the application of the appellant that was filed under Section 372 of the Indian Succession Act, 1925 and shall pass necessary orders for disposal of the said case.

The appeal stands disposed of.

LCR shall be returned.

The appellant is directed to appear before the Court below on 2nd September, 2024.

JUDGE

Comparing Assistant