

GAHC010221062024



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

Case No. : CRP(IO)/433/2024

DIPAK PAUL @ MINTU PAUL
S/O- LATE AMAR CHANDRA PAUL, R/O- KALIBARI ROAD, SILCHAR
TOWN, WARD NO. 8, P.O. AND P.S. SILCHAR, PIN- 788001, DIST. CACHAR,
ASSAM

VERSUS

PUSPA RANI PAUL AND 3 ORS.
W/O- LATE SANKAR NATH PAUL, R/O- KALIBARI ROAD, FATAK BAZAR,
SILCHAR TOWN, P.O. AND P.S. SILCHAR, PARGONA - BARAKPAR, PIN-
788001, DIST. CACHAR, ASSAM

2:SEKHAR PAUL
S/O- LATE SANKAR NATH PAUL
R/O- KALIBARI ROAD
FATAK BAZAR
SILCHAR TOWN
P.O. AND P.S. SILCHAR
PARGONA - BARAKPAR
PIN- 788001
DIST. CACHAR
ASSAM

3:SUDIP PAUL
S/O- LATE SANKAR NATH PAUL
R/O- KALIBARI ROAD
FATAK BAZAR
SILCHAR TOWN
P.O. AND P.S. SILCHAR
PARGONA - BARAKPAR
PIN- 788001
DIST. CACHAR
ASSAM

4:SMT. MAMTA PAUL
D/O- LATE SANKAR NATH PAUL
R/O- KALIBARI ROAD
FATAK BAZAR
SILCHAR TOWN
P.O. AND P.S. SILCHAR
PARGONA - BARAKPAR
PIN- 788001
DIST. CACHAR
ASSA

Advocate for the Petitioner : MR. P P BARUAH, MR. D GOSWAMI, MS. P MEDHI

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

25.10.2024

Heard Mr. P.P. Baruah, learned counsel for the petitioner.

2. In this petition, under Article 227 of the Constitution of India read with Section 115 of the C.P.C., the petitioner has put to challenge the correctness or otherwise of the order dated 23.04.2024, passed by the learned Civil Judge (Junior Division) No. 4, Cachar at Silchar, in Title Suit No. 15/2014.

3. It is to be noted here that vide impugned order dated 23.04.2024, the learned Civil Judge (Junior Division) No. 4, Cachar at Silchar has dismissed the petition, being Petition No. 114/2015, filed by the petitioner, under Order 13 Rule 10 of the C.P.C. for calling the records of the Misc. (R.C.) Cases from the District Records Room, Cachar and also for fixing another date for filing a petition for the same.

4. Mr. Baruah, learned counsel for the petitioner submits that the respondents here in filed the Title Suit No. 15/2014, against the present

petitioner for a decree of ejectment from the suit premises on the ground of being a defaulter in payment of rent and also on the ground of bonafide requirement. Mr. Baruah further submits that the petitioner has been depositing the rent before the learned trial court, since May, 2003 and filed written statement with the prayer to grant leave to submit document pertaining to Misc. (R.C.) cases at later stage. Mr. Baurah further submits that on 28.06.2023, the case was fixed for the evidence of the defendant. But, on that date, certified copies of all the Misc. (R.C.) cases were not received by the petitioner, for which he filed a petition for granting time to file examination-in-chief of the defendant witness and the same was allowed. Therefore, on 23.04.2024, the petitioner had filed another petition for calling the original records of Misc. (R.C.) cases and granting him some time, which was rejected and closed the evidence of the defendant witness. Therefore, Mr. Baruah submits that unless the records of Misc. (R.C.) Cases are called for, the petitioner would not be able to establish his case. Mr. Baruah also submits that the learned trial court has illegally and arbitrarily dismissed the petition and thereby caused prejudice to the petitioner. Therefore, it is contended to set aside the impugned order dated 23.04.2024, passed by the learned Civil Judge (Junior Division) No. 4, Cachar at Silchar, in Title Suit No. 15/2014 and also to direct the learned trial court to call for the records of Misc. (R.C.) Cases from the District Records Room, Cachar and to allow the petitioner to adduce evidence in his defence.

5. Having heard the submission of learned counsel for the petitioner, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 23.04.2024, passed by the learned Civil Judge (Junior Division) No. 4, Cachar at Silchar, in Title Suit No. 15/2014.

6. It appears that the learned trial court has dismissed the petition on the

ground that the petitioner has not mentioned in the petition, about the details of the Misc. (R.C.) Cases and the petitioner has already avail several adjournments. Therefore, the learned trial court by rejecting the petition closed the evidence of the petitioner.

7. It is to be noted here that right to fair trial is a fundamental right and in fair trial, fair opportunities have to be afforded to both the parties to establish their cases.

8. In the present case, though some opportunities have already been afforded to the petitioner, yet, having regard to the nature of disputes between the parties and the submission of learned counsel for the petitioner, this court is of the view that one more opportunity has to be afforded to the petitioner to adduce evidence. Otherwise, serious prejudice will be caused to him.

9. Accordingly, it is provided that the learned trial court shall afford another opportunity to the petitioner. It is further provided that on furnishing the particulars of the Misc. (R.C.) Cases by the petitioner, the learned trial court shall call for the records of Misc. (R.C.) Cases from the District Records Room, Cachar and thereafter, to proceed to hear and dispose of the matter in accordance with law.

10. In terms of above, this petition stands disposed of, at the motion stage itself.

JUDGE

Comparing Assistant