

GAHC010229722022



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

Case No. : RSA/77/2023

JAKARIA AHMED AND 2 ORS.
S/O ABDUL SUKKUR, VILL.- KANDIGRAM, P.O.- DASGRAM, P.S.-
NILAMBAZAR, DIST.- KARIMGANJ.

2: ABDUL MUMIT
S/O ABDUL SOLAM
VILL.- BAGON
P.O.- KARNAMADHU
P.S. AND DIST.- KARIMGANJ (ASSAM).

3: MUIJUR RAHMAN
S/O ABDUL SUKKUR
VILL.- BAGON
P.O.- KARNAMADHU
P.S. AND DIST.- KARIMGANJ (ASSAM)

VERSUS

DIVISIONAL FOREST OFFICER (T) AND 6 ORS
KARIMGANJ DIVISION, P.O.- TILLABAZAR, P.S. AND DIST.- KARIMGANJ
(ASSAM), PIN- 788709.

2: THE STATE OF ASSAM
REP. BY THE GOVT. ADVOCATE
ASSAM
GUWAHATI- 01.

3: THE DEPUTY COMMISSIONER
KARIMGANJ
P.O. AND DIST.- KARIMGANJ (ASSAM)
PIN- 788710.

4: THE GENERAL MANAGER
DISTRICT INDUSTRY AND COMMERCE CENTRE

P.O. AND DIST.- KARIMGANJ (ASSAM)
PIN- 788710.

5:THE RANGE FOREST OFFICER (SADAR)
KARIMGANJ
P.O. AND DIST.- KARIMGANJ (ASSAM)
PIN- 788710.

6:THE BEAT FOREST OFFICER
LONGAI FOREST BEAT OFFICE
LONGAI ROAD
P.O. AND DIST.- KARIMGANJ (ASSAM) PIN- 788710.

7:THE BEAT FOREST OFFICER
NILAMBAZAR
FOREST BEAT OFFICE
P.O.- NILAMBAR
DIST.- KARIMGANJ (ASSAM)
PIN- 788722

For the appellant (s) : Mr. A.H. M. R. Choudhury, Advocate

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

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

27.05.2024

This is an Appeal filed under Section 100 of the Code of Civil Procedure, 1908 challenging the judgment and decree dated 05.03.2022 passed by the Court of the Civil Judge, Karimganj in Title Appeal No.10/2020 whereby the Appeal was dismissed thereby affirming the judgment and decree dated 07.02.2020 passed by the learned Munsiff No.1, Karimganj in Title Suit No.90/2015.

2. The learned counsel appearing on behalf of the appellants submits that both the suit as well as the Appeal was dismissed on the ground of

maintainability. The learned counsel therefore submits that the plaintiffs would have been better advised to file a writ petition or avail other remedies instead of filing the suit. Under such circumstances, the learned counsel for the appellants submitted that he has instructions to withdraw the instant Appeal. The learned counsel for the appellants however submits that the withdrawal of the instant Appeal should not prejudice the plaintiffs to avail such remedies available under the law.

3. This Court has duly taken note of the judgment and decree passed by the learned Trial Court as well as the learned First Appellate Court wherein it is seen that the suit has been dismissed holding it to be not maintainable.

4. Under such circumstances, this Court permits the withdrawal of the instant Second Appeal and accordingly the instant Appeal is dismissed on withdrawal.

5. It is made clear that taking into account that both the Courts below have categorically observed that the suit was not maintainable, the judgment and decree so passed therein shall not affect the rights of the appellants herein to avail such other remedies as permissible under the law.

JUDGE

Comparing Assistant