

GAHC010241352023



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

Case NO.: MC/81/2023

ANJAN KR DEY
S/O LATE RAMESH CHANDRA DEY
R/O GOHAIN ALI
WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSAM

VERSUS

JAYANTI DEY AND 4 ORS
W/O LATE BISWESWAR DEY
R/O GOHAIN ALI
WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSAM

2:SRI BIJOY KUMAR DEY

S/O LATE BISWESWAR DEY
R/O GOHAIN ALI
WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSAM

3:SMTI ANURADHA DEY

D/O LATE BISWESWAR DEY
R/O GOHAIN ALI

WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSAM
4:SMTI APSARA DEY

D/O LATE BISWESWAR DEY
R/O GOHAIN ALI
WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSAM
5:SMTI MANCHAN ACHAO

W/O SRI TARUN ACHAO
R/O KAMERBONDHA ROAD
WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSAM

For the applicant (s) : Mr. P. K. Roychoudhury, Advocate

For the respondent (s) : Mr. S. K. Ghosh, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

08.05.2024

This is an application filed under Order XLI Rule 19 of the Code of Civil Procedure, 1908 for seeking restoration/re-admission of the Regular Second Appeal being RSA No.96/2004 which was dismissed for non-prosecution vide the order dated 28.02.2023.

2. The grounds mentioned therein stipulate that the earlier counsel who was representing the appellants could not appear on account of his medical

ailments and further due to his medical ailments he could not also inform the applicant.

3. Taking into account the grounds which are solely on account of the ailments of the counsel, this Court is of the opinion that the case is made out for restoration of the Appeal which was dismissed for default vide the order dated 28.02.2023.

4. Accordingly, the instant application is allowed thereby bringing back the Regular Second Appeal being RSA No.96/2004 to the file of this Court

5. In view of the above, the instant application stands disposed of.

JUDGE

Comparing Assistant