

GAHC010239272024



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

Case No. : CRP(IO)/474/2024

DR SRIDAM CH DAS
S/O LATE MAHENDRA CH. DAS, R/O LANE NO. 2, GREEN AVENUE, I.T.I.
COLLEGE ROAD, OPP. OF ECO DEVELOPMENT PARK, P.O., P.S. AND DIST-
BONGAIGAON, BONGAIGAON, ASSAM, PIN-783380

VERSUS

JANMESWAR ROY AND ANR
S/O LATE TAHSIL ROY, R/O VILL- MAJGAON PART-I, P.O.-CHOKAPARA,
DIST- BONGAIGAON, ASSAM, PIN-783380

2:SMT. CHAMPABATI RAY
D/O LATE SHIB CHARAN RAY
W/O LATE BIREN CH. RAY
R/O VILL- MAJGAON
P.O.-CHOKAPARA
DIST- BONGAIGAON
ASSAM
PIN-78338

Advocate for the Petitioner : MR. B J MUKHERJEE, A SAHA, MS R SAHA

Advocate for the Respondent : ,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 20.11.2024

Heard Mr. B.J.Mukherjee, learned counsel for the petitioner.

By filing this petition under Article 227 of the Constitution of India r/w Section 151 of the Code of Civil Procedure, 1908, the petitioner has challenged the order dated 03.07.2024 passed by the learned Civil Judge (Senior Division), Bongaigaon in Title Suit No.40/2022 whereby the filing of evidence of DWs was closed.

Learned counsel for the petitioner submits that earlier the learned trial court vide order dated 13.05.2024 allowed the defendant side to file evidence in chief of DW's but with a cost of Rs.500/- and on being deposited be handed over to the plaintiff side. But the petitioner who is the defendant No. 2 was under the impression that the defendant No. 1 would pay the said cost, ultimately, the cost was not paid before the trial court. Therefore, the petitioner now prays for a last opportunity to defend his case by adducing his DWs before the learned trial court.

Having heard learned counsel for the petitioner and on perusal of the order dated 03.07.2024, it appears that vide petition No. 1553/2024, the prayer for adjournment of the defendant Nos. 1 and 2 to adduce evidence was rejected by the learned trial court. It is also reflected from the said order that the defendant side took repeated adjournments for more than a year. However, as no any defence witness has been examined, prayer of the petitioner is allowed by giving an opportunity to adduce evidence of DWs. The petitioner is also directed to pay the cost of Rs.500/- to the plaintiff/ respondents imposed by the learned trial court. The learned trial court is also directed to allow the defendants by giving another opportunity to adduce evidence.

With the aforesaid directions, the civil revision petition stands disposed of.

JUDGE

Comparing Assistant