

GAHC010243752015



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

Case No. : CRP(IO)/123/2015

PIYUSH AGARWAL and 2 ORS
S/O- SRI BANARASI LAL AGARWAL, R/O- SUNDARPUR, ZOO ROAD, P.S.-
DISPUR, GHY- 5.

2: BANAASI LAL AGARWAL
S/O- LT. CHHONGMAL AGARWAL
R/O- FLAT NO. 4-D
NIRUPAM APARTMENT
ABC
TARUN NAGAR
P.S.- DISPUR
GHY- 5
DIST.- KAMRUP M
ASSAM.

3: PANKAJ AGARWAL
S/O- SRI BANARSI LAL AGARWAL
R/O- FLAT NO. 4-D
ABC
TARUN NAGAR
NIRUPAM APARTMENT
P.S.- DISPUR
GHY- 5
DIST.- KAMRUP M
ASSAM

VERSUS

SMT. HEERA BARUA and 14 ORS
W/O- SRI INDRAJIT BARUA, D/O- LT. TAPAN LAL BARUA, R/O- AKASHI
APARTMENT, 10, JORPUKHURI SOUTH, GHY- 1, DIST.- KAMRUP M, ASSAM.

2: RANJEEV LAL BARUA
S/O- LT. GOVINDA LAL BARUA

R/O- KANAK APARTMENT
JORPUKHURI
GHY- 1
DIST.- KAMRUP M
ASSAM.

3:PRANAB LAL BARUA
S/O- LT. CHUNI LAL BARUA
R/O- G.F. BANGLOW NO. 7
LAMB ROAD
GHY- 1
DIST.- KAMRUP M
ASSAM.

4:SANJIB LAL BARUA
S/O- LT. CHUNI LAL BARUA
R/O- G.F. BANGLOW NO. 7
LAMB ROAD
GHY- 1
DIST.- KAMRUP M
ASSAM.

5:NILIMA BARUA
W/O- LT. PHANI LAL BARUA
R/O- E-5
AASHRAY APARTMENT
RATNAGIRI PATH
BAMUNIMAIDAM
GHY- 21
DIST.- KAMRUP M
ASSAM.

6:HIRON BARUA
W/O- LT. NANI LAL BARUA
R/O- G.F. BANGLOW NO. 3
G.M.C. HOUSE NO. 5
LAMB ROAD
GHY- 1
DIST.- KAMRUP M
ASSAM.

7:NALINI BARUA
W/O- LT. MONI LAL BARUA
R/O- B63
DEFENCE COLONY
G.F. NEW DELHI- 110024.

8:SUNITA BARUA

W/O- LT. MAKHANLAL BARUA
R/O- G.F. BANGLOW NO. 3
GMC HOUSE NO. 5
LAMB ROAD
GHY- 1
DIST.- KAMRUP M
ASSAM.

9:RATAN LAL BARUA
S/O- LT. NANI LAL BARUA
R/O- A 1/15
PANCHSHEEL ENCLAVE
FIRST FLOOR
NEW DELHI- 110027.

10:CHANDAN LAL BARUA
S/O- LT. NANI LAL BARUA
R/O- G.F. BANGLOW NO. 3
GMC HOUSE NO. 5
LAMB ROAD
GHY- 1
DIST.- KAMRUP M
ASSAM.

11:RITA CHALIHA
W/O- SRI AJIT CHALIHA
D/O- LT. NANI LAL BARUA
R/O- G.F. BANGLOW NO. 3
GMC HOUSE NO. 5
LAMB ROAD
GHY- 1
DIST.- KAMRUP M
ASSAM.

12:GITA BHARALI
W/O- SRI P. BHARALI
D/O- LT. NANI LAL BARUA
R/O- G.F. BANGLOW NO. 3
GMC HOUSE NO. 5
LAMB ROAD
GHY- 1
DIST.- KAMRUP M
ASSAM.

13:ZAHID AHMED

14:KALIM AHMED

BOTH 13 and 14 ARE S/O- LT. ABDUL HAQUE
R/O- SADILAPUR
JALUKBARI
P.O.- PANDU
GHY- 12
DIST.- KAMRUP M
ASSAM.

15:ASMA BEGUM
W/O- MD. KALIM AHMED
R/O- GANDHIBASTI
P.S.- CHANDMARI
GHY- 3
DIST.- KAMRUP M
ASSAM

Advocate for the Petitioner : MR. K SAIKIA

Advocate for the Respondent : MR.S BARTHAKURR-1

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

Date : 19.07.2024

Heard Mr. R.K. Bhuyan, the learned counsel appearing for the petitioners as well as Mr. M.M. Bhuyan, the learned counsel appearing for the respondent Nos. 13, 14 and 15.

None appears for the respondent Nos. 1, 2, 3, 5, 7 and 9.

Mr. Bhuyan has submitted that the names of the respondent Nos. 4, 6, 8, 10, 11 and 12 should be struck off from the title page of the present petition.

Accordingly, the names of the respondent Nos. 4, 6, 8, 10,11 and 12 are struck off from the title page of the present petition at the risk of the petitioners.

This is an application under Article 227 of the Constitution of India challenging the impugned order dated 24.08.2015 passed by the learned Civil Judge No. 2, Kamrup (M), Guwahati in Money Suit No. 80/2009.

The petitioner filed the money suit against the respondents. The respondents, on the other hand, filed a written statement stating that some other persons were not impleaded in the said suit. Therefore, the petitioners filed an application under Order I Rule 10 of the Code of Civil Procedure praying for allowing them to implead 13 numbers of persons as defendants. The trial court held that the defendant filed the written statement in the year 2010 and the application under Order I Rule 10 of the Code of Civil Procedure was filed recently. On that ground, the application was rejected by the trial court.

I have considered the submissions of the learned counsels of both sides.

This Court is of the opinion that the trial court did not apply judicial mind while passing the impugned order.

Therefore, the impugned order dated 24.08.2015 passed by the learned Civil Judge No. 2, Kamrup (M), Guwahati in Money Suit No. 80/2009 is set aside.

The trial court is directed to allow the prayer of the present petitioners for impleading 13 numbers of persons as defendants.

With the aforesaid direction, the revision petition stands disposed of.

The earlier stay order dated 12.10.2015 stands vacated.

JUDGE

Comparing Assistant