

GAHC010258682022



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

Case No. : FAO/1/2023

MD. HABIBUR RAHMAN
S/O LT. SUKUR ALI,
VILL.- KHARUAPARA,
MOUZA- NAGAON,
P.O.- NAGAON, P.S. AND DIST.- BARPETA, ASSAM, PIN- 781309.

VERSUS

ON THE DEATH OF DEFENDANT MD GAZANFAR HIS LEGAL HEIRS RINA
BEGUM AND ORS.
W/O LT. GAZANFAR ALI,
VILL.- BHELLA, DURGAHPUR,
MOUZA- BARPETA,
P.S. AND DIST.- BARPETA, ASSAM, PIN- 781314.

1.2:GAJIUL ALOM
S/O LT. GAZANFAR ALI

VILL.- BHELLA
DURGAHPUR

MOUZA- BARPETA

P.S. AND DIST.- BARPETA
ASSAM
PIN- 781314.

1.3:HADID ALOM
S/O LT. GAZANFAR ALI

VILL.- BHELLA
DURGAHPUR

MOUZA- BARPETA

P.S. AND DIST.- BARPETA
ASSAM
PIN- 781314.

1.4:NUR ALOM
S/O LT. GAZANFAR ALI

VILL.- BHELLA
DURGAHPUR

MOUZA- BARPETA

P.S. AND DIST.- BARPETA
ASSAM
PIN- 781314

For the appellant (s) : Mr. M. U. Mahmud, Advocate

For the respondent (s) : Mr. M Ahmed, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

13.05.2024

Mr. M. U. Mahmud, the learned counsel for the appellant submits that the instant Appeal has been wrongly filed taking into account the Section 104 (2) of the Code of Civil Procedure, 1908. The learned counsel for the appellant therefore submits that he may be permitted to withdraw the instant Appeal and file appropriate proceedings challenging the order dated 20.10.2022 passed in Misc.(A) No.04/2018.

2. Taking into account the above submission, the instant Appeal stands dismissed on withdrawal.

3. However, the appellant herein is given the liberty to file an appropriate proceedings challenging the order dated 20.10.2022 passed in Misc.(A) No.04/2018.
4. This Court further makes it clear that the period of pendency of the instant Appeal, i.e. from 13.12.2022 till date be excluded while computing the period of limitation. In addition to that, the counsel for the appellant would be at liberty to file an application before the Registry seeking the certified copy of the order dated 20.10.2022 passed in Misc.(A) No.04/2018. Upon such application filed by the appellant, the Registry shall forthwith and not later than 5 days therefrom furnish the certified copy of the order dated 20.10.2022 passed in Misc.(A) No.04/2018 to the counsel for the appellant.
5. The interim passed earlier stands vacated.
6. LCR be returned.

JUDGE

Comparing Assistant