

GAHC010263332022



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

Case No. : CRP(IO)/322/2022

TAIYAB ALI
S/O- LATE ISHAHOQUE MIAH, R/O- BIDYAPARA AFTAB UDDIN LANE,
WARD NO. 10, DHUBRI, P.S. AND DIST. DHUBRI, PIN- 783301, ASSAM

VERSUS

ZARINA KHATUN AND 14 ORS.
D/O- LATE JAMILUDDIN AHMED, R/O- G.T.B. ROAD, DHUBRI TOWN, WARD
NO. 9, P.S. AND DIST. DHUBRI, PIN- 783301, ASSAM

2:JAHANARA KHATUN
D/O- LATE JAMILUDDIN AHMED
R/O- G.T.B. ROAD
DHUBRI TOWN
WARD NO. 9
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

3:ROHIDA KHATUN
D/O- LATE JAMILUDDIN AHMED
R/O- G.T.B. ROAD
DHUBRI TOWN
WARD NO. 9
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

4:ZAHIDA KHATUN @ ZAHIRA KHATUN
D/O- LATE JAMILUDDIN AHMED
R/O- G.T.B. ROAD
DHUBRI TOWN

WARD NO. 9
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

5:ALAUDDIN
S/O- LATE ISHAHOQUE MIAH
VILL.- BIDYAPARA AFTAB UDDIN LANE
WARD NO. 10
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

6:QURESHA NESSA
D/O- LATE ISHAHOQUE MIAH
VILL.- BIDYAPARA AFTAB UDDIN LANE
WARD NO. 10
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

7:BASITUL NESSA
S/O- LATE ISHAHOQUE MIAH
VILL.- BIDYAPARA AFTAB UDDIN LANE
WARD NO. 10
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

8:IMRAN NESSA
S/O- LATE ISHAHOQUE MIAH
VILL.- BIDYAPARA AFTAB UDDIN LANE
WARD NO. 10
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

9:SUBHAS SARMA
S/O- LATE DURGA MISTRI
R/O- N.S. ROAD
P.S. AND DIST. DHUBRI
ASSAM
PIN- 783301.

10:MATABUDDIN KHAN
S/O- LATE ISMAIL KHAN
G.T.B. ROAD
P.S. AND DIST. DHUBRI

ASSAM
PIN- 783301

11:ABDUL LATIF
S/O- LATE ABDUL MOTIN KHANDAKAR
R/O- G.T.B. ROAD
DHUBRI TOWN
WARD NO. 9
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

12:SAIFULLAH KHANDAKAR
S/O- LATE ABDUL MOTIN KHANDAKAR
R/O- G.T.B. ROAD
DHUBRI TOWN
WARD NO. 9
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

13:ATIKUL KHANDAKAR
S/O- LATE ABDUL MOTIN KHANDAKAR
R/O- G.T.B. ROAD
DHUBRI TOWN
WARD NO. 9
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

14:KHALIULLA KHANDAKAR @ BABLU
S/O- LATE ABDUL MOTIN KHANDAKAR
R/O- G.T.B. ROAD
DHUBRI TOWN
WARD NO. 9
P.S. AND DIST. DHUBRI
PIN- 783301
ASSAM

15:ARSAD ULLAH KHANDAKAR
S/O- LATE ABDUL MOTIN KHANDAKAR
R/O- G.T.B. ROAD
DHUBRI TOWN
WARD NO. 9
P.S. AND DIST. DHUBRI
PIN- 783301
ASSA

For the Petitioner(s) : None appears.
For the Respondent(s) : Mr. S. Das, Advocate
: Mr. G. Bharadwaj, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 01.04.2024

1. This is an application filed under Article 227 of the Constitution challenging the order dated 21.09.2022 passed by the learned Court of the Munsiff No.2, Dhubri in Title Suit No.148/2015.
2. Vide the said impugned order, the learned Trial Court has rejected the application filed by the plaintiff for permitting the plaintiff to adduce evidence and fixed 29.10.2022 for DWs.
3. From the materials on record, it reveals that the plaintiff has already taken ten adjournments and even after the ten adjournments have been granted, the plaintiff did not file his evidence on affidavit. This Court duly takes note of provisions of Order XVII Rule 1 of the Code of Civil Procedure, 1908 wherein it stipulates that not more than three adjournments can be granted at the stage of hearing. In the instant case, the learned Trial Court was much lenient in granting more than what was envisaged even under the statutory regime. Under such circumstances, this Court finds no jurisdictional error in the order dated 21.09.2022 passed in Title Suit No.148/2015. Accordingly, the instant petition therefore stands dismissed.
4. The interim order dated 22.12.2022 passed by this Court stands vacated and the learned Trial Court shall proceed with the adjudication of Title Suit

No.148/2015 on the basis of a certified copy of the instant order being placed before the learned Trial Court.

5. This Court further fixes the matter before the Court below on 22.04.2024 on which date, the parties shall appear before the learned Trial Court.

JUDGE

Comparing Assistant