

GAHC010276522023



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

Case No. : CRP(IO)/413/2023

ANKITA THARD
W/O LT. NIKUNJ THARD ADDRESS RAM KRISHNA NAGAR TINSUKIA
TOWN P.S AND DIST. TINSUKIA PIN 786125 ASSAM

VERSUS

SUSHILA DEVI THARD
W/O PRAHLAD RAI THARD ADDRESS RAM KRISHNA NAGAR TINSUKIA
TOWN P.O P.S. AND DIST. TINSUKIA PIN 786125 ASSAM

For the Petitioner(s) : Mr. S. Chamaria, Advocate

For the Respondent(s) : Mr. S. Deka, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 09.04.2024

1. Mr. S. Chamaria, the learned counsel appearing on behalf of the Petitioner submitted that against the impugned order which has been passed by which the entire probate proceedings have been rejected in terms with the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908, an appeal lies under Section 384 of the Indian Succession Act, 1925.

2. The learned counsel therefore submitted that he may be permitted to withdraw the instant application with a liberty to file an Appeal. He further submitted that the period during which the instant proceedings have been pending be excluded while computing the period of limitation. Further to that, the learned counsel for the Petitioner submitted that the certified copy of the impugned order may also be permitted to be taken from the Registry by filing an application.

3. Taking into account the above, the instant application stands dismissed on withdrawal. This Court is of the opinion that the dismissal of the instant application shall not prejudice the Petitioner to file an appeal, if otherwise permissible under law. In addition to that, this Court is also of the opinion that taking into account that on the basis of legal advice, the Petitioner has been pursuing the instant proceedings bonafidely and diligently, the benefit of Section 14 of the Limitation Act, 1963 duly applies and as such the period from 06.12.2023 till date be excluded while computing the period of limitation.

4. In addition to that, this Court further observes that in the circumstance the counsel for the Petitioner files an application before the Registry for seeking certified copy of the impugned order, the Registry shall provide the said certified copy within 5 (five) days from the date of filing such application.

5. Interim order passed on 05.01.2024 stands vacated.

JUDGE

Comparing Assistant