

GAHC010279752023



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

Case No. : CRP/196/2023

KANAN BALA PAUL
W/O- LATE SANTOSH KUMAR PAUL, R/O- LINK ROAD LANE NO. 9, P.O.
AND PS. SILCHAR, DIST. CACHAR, ASSAM

VERSUS

ANJAN KUMAR PAUL HIS LEGAL HEIRS ANJANA PAUL AND 2 ORS
W/O- LATE ANJAN KUMAR PAUL, R/O- RADHA MADHAB ROAD, BILPAR,
P.O. AND P.S. SILCHAR, DIST. CACHAR, ASSAM

2:ANUPAM PAUL
S/O- LATE ANJAN KUMAR PAUL
R/O- RADHA MADHAB ROAD
BILPAR
P.O. AND P.S. SILCHAR
DIST. CACHAR
ASSAM

3:SMTI. ANKITA PAUL
D/O- LATE ANJAN KUMAR PAUL
R/O- RADHA MADHAB ROAD
BILPAR
P.O. AND P.S. SILCHAR
DIST. CACHAR
ASSA

For the Appellant(s) : Mr. R. P. Sarmah, Sr. Advocate

For the Respondent(s) : None appears.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 27.06.2024

This is an application under Article 227 of the Constitution challenging the order dated 03.10.2023 passed in Petition No.305/2013 arising out of Title Suit No.110/1999 by the learned Civil Judge (Junior Division) No.5, Cachar, Silchar.

2. Vide the impugned order dated 03.10.2023, the learned Trial Court i.e. the Court of the learned Civil Judge, (Junior Division) No.5 Cachar, Silchar had rejected the application for sending Exhibit-1(i), Exhibit-1(ii), Exhibit-1(iii), Exhibit-F, Exhibit-F(i) and Exhibit-F(ii) to the handwriting expert of the Directorate of Forensic Science, Kahilipara. The reasons assigned in the said order is that this Court in its judgment dated 27.05.2016 passed in Civil Revision Petition No.360/2011 had only directed to send Exhibit-E for examination of the handwriting expert and not Exhibit-F.

3. This Court has also duly taken note of the judgment and order passed by this Court on 27.05.2016 in Civil Revision Petition No.360/2011 and the directions so passed in the said judgment more particularly at paragraph No.16 is reproduced herein under:

“(16) Both the courts below failed to compare the admitted signatures of the plaintiff with that of Ext.E i.e. outer counterfoil of the rent receipt by exercising their jurisdiction vested in law. Therefore the impugned judgment and order dated 24.08.2011, passed by the learned Civil Judge, No.1, Cachar, Silchar in Title Appeal No.3/2007 affirming the judgment and decree dated 04.12.2006, passed by the learned Munsiff No.1, Cachar at Silchar in title Suit No.110/1999

is hereby set aside and quashed. The matter is remanded back to the trial court for deciding the limited question as to whether the outer counterfoil of the rent receipt exhibited by the defendant bears the signature of the plaintiff, on correction being made. Both the parties will be at liberty to adduce their evidence on this aspect."

4. From a perusal of the above paragraph, it is seen that this Court had made it categorically clear that only the admitted signatures of the plaintiff are to be compared with Exhibit-E i.e. the outer counterfoil of the rent receipt and in that regard, had remanded the suit back to the learned Trial Court for deciding the limited question as to whether outer counterfoil of the rent receipt exhibited by defendant bears the signatures of plaintiff. Under such circumstances, as the suit was remanded only on the said aspect of the matter, the further evidence which is required to be taken is also limited to that extent.

5. Consequently, this Court therefore finds no infirmity in the order dated 03.10.2023 impugned in the instant proceedings for which the instant proceedings stands dismissed.

JUDGE

Comparing Assistant