

GAHC010294922023



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

Case No. : CRP/12/2024

FAGUNI SWARGIARY AND ANR
W/O- LATE RAJEN SWARGIARY, R/O- VILL. SALPARA BANGAON, MOUZA-
LAOKHAOWA, P.S. RUPOHIHAT, DIST. NAGAON, ASSAM

2: SMTI. GEETA SWARGIARY
W/O- LATE RAJEN SWARGIARY
R/O- VILL. SALPARA BANGAON
MOUZA- LAOKHAOWA
P.S. RUPOHIHAT
DIST. NAGAON
ASSA

VERSUS

RAM KUMAR MANDAL
S/O- SRI KHETRA MOHAN ROY, R/O- NO. 2 DUNGABORI, P.S. JAGIROAD,
MOUZA- GOVA, DIST. MORIGAON, ASSAM

Advocate for the Petitioner : MR. U DUTTA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

09.02.2024

Heard Mr. U. Dutta, learned counsel for the petitioners.

This is an application under Article 227 of the Constitution of India challenging

the order dated 05.09.2023 passed by the learned Civil Judge (Junior Division) No. 1, Morigaon in M.J. No. 09/2021 .

The petitioners are the defendants before the trial court. He already filed the evidence of DW-1, DW-2 and DW-3. Before cross-examination of these witnesses by the plaintiff, the defendants filed evidence of two other witnesses, namely, DW-4 and DW-5. On that day, the plaintiff prayed for adjournment and the prayer for adjournment was allowed. The defendants also filed an application praying for some more time to file more evidence of their witnesses.

Thereafter, on 19.02.2020, the defendants filed an application for allowing cross-examination of the witnesses by the plaintiff. Thereafter, on 05.09.2023, the trial court dismissed the application.

Being aggrieved by the said order, the present application has been filed.

I have considered the submission made by the learned counsel for the petitioners that refusal of held cross-examination of DW-1, DW-2 and DW-3 shall be highly prejudicial. Therefore, the impugned order dated 05.09.2023 passed by the learned Civil Judge (Junior Division) No. 1, Morigaon in M.J. No. 09/2021 is bad in law and stands set aside.

The trial court is directed to allow the cross-examination of DW-1, DW-2 and DW-3. Thereafter, cross-examination of the remaining witnesses will be taken up and on conclusion of trial, the trial court shall proceed to dispose of the case in accordance with law.

The civil revision petition is disposed of.

JUDGE

Comparing Assistant