GAHC010281992025

2026:GAU-AS:13846

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

Case No. : CRP/4/2026

TAPAN KR SAHA AND 3 ORS.
S/O LATE SHANTI GOPAL SAHA, PANPATTY, SILCHAR- 1, DISTRICT- CACHAR, ASSAM.

2: DIPAK ROY
S/O LATE HARIPADA ROY
RESIDENT OF CENTRAL ROAD
SILCHAR TOWN
DISRICT- CACHAR
ASSAM
PIN- 788001.

3: TINKU MAZUMDER
S/O LATE HABIBUR RAHMAN MAZUMDER
RESIDENT OF GHANIALAL
NEAR SAMAYIK PRASANGA NEWS PAPER OFFICE
SILCHAR
P.O. AND P.S.- SILCHAR
DISTRICT- CACHAR
ASSAM.

4: MUMINUR RAHMAN MAZUMDER @ SANKU MAZUMDER
S/O LATE HABIBUR RAHMAN MAZUMDER
RESIDENT OF GHANIALAL
NEAR SAMAYIK PRASANGA NEWS PAPER OFFICE
SILCHAR
P.O. AND P.S.- SILCHAR
DISTRICT- CACHAR
ASSAM

VERSUS

ANABIK GUPTA AND 9 ORS.
SON OF LATE ARUNENDU KISHORE GUPTA @ ARUN KUMAR GUPTA AND

ARE RESIDENT OF PATHERKANDI, VILLAGE- DUHALIA- 5, P.O. AND P.S.- PATHERKANDI, DISTRICT- SRIBHUMI, ASSAM, PIN- 788724.

2:AMIT GUPTA
SON OF LATE ARUNENDU KISHORE GUPTA @ ARUN KUMAR GUPTA AND ARE RESIDENT OF PATHERKANDI
VILLAGE- DUHALIA- 5
P.O. AND P.S.- PATHERKANDI
DISTRICT- SRIBHUMI
ASSAM
PIN- 788724.

3:BIKASH RANJAN SHEE
SON OF LATE BHUPENDRA KUMAR SHEE AND ARE RESIDENT OF HOSPITAL ROAD
OPPOSITE LAXMI NARAYAN BIBAHA BASAR
P.O. AND P.S.- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788005.

4:SMT MANJU SHEE
DAUGHTER OF LATE BHUPENDRA KUMAR SHEE AND ARE RESIDENT OF HOSPITAL ROAD
OPPOSITE LAXMI NARAYAN BIBAHA BASAR
P.O. AND P.S.- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788005.

5:SMT MITALI SHEE
DAUGHTER OF LATE BHUPENDRA KUMAR SHEE AND ARE RESIDENT OF HOSPITAL ROAD
OPPOSITE LAXMI NARAYAN BIBAHA BASAR
P.O. AND P.S.- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788005.

6:ON THE DEATH OF MIRA SHYAM CHOUDHURY
HER LEGAL HEIRS
NAMELY

6.1:BACHASPATI SHYAM CHOUDHURY
HUSBAND OF LATE MIRA SHYAM CHOUDHURY
RESIDENT OF HOUSE NO. 7
JAGAT BANDHU LANE
NATIONAL HIGHWAY

SILCHAR- 788012
DISTRICT- CACHAR
ASSAM.

6.2:BIPRAJIT SHYAM CHOUDHURY
SON OF LATE MIRA SHYAM CHOUDHURY
ARE RESIDENT OF HOUSE NO. 7
JAGAT BANDHU LANE
NATIONAL HIGHWAY
SILCHAR- 788012
DISTRICT- CACHAR
ASSAM.

6.3:SMT BORNALI DHAR
DAUGHTER OF LATE MIRA SHYAM CHOUDHURY
ARE RESIDENT OF HOUSE NO. 7
JAGAT BANDHU LANE
NATIONAL HIGHWAY
SILCHAR- 788012
DISTRICT- CACHAR
ASSAM.

7:ALBERT SAHA @ BISWAJIT SAHA
S/O LATE NARAYAN CHANDRA SAHA
RESIDENT OF HOUSE NO. 6
SADHANA MANSION
LANE NO. 5
2ND LINK ROAD
P.O. AND P.S.- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788006.

8:SMTI JHUMA SAHA @ POMPA SAHA
D/O LATE NARAYAN CHANDRA SAHA
RESIDENT OF HOUSE NO. 6
SADHANA MANSION
LANE NO. 5
2ND LINK ROAD
P.O. AND P.S.- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788006.

9:ON THE DEATH OF MANSUR ALAM MAZUMDER @ MINTU MAZUMDER
HIS LEGAL HEIRS
NAMELY

9.1:ARPITA MAZUMDER
DAUGHTER OF LATE MANSUR ALAM MAZUMDER @ MINTU MAZUMDER
AND ARE RESIDENT OF GHANIALAL
NEAR SAMAYIK PRASANGA NEWS PAPER OFFICE
SILCHAR
P.O. AND P.S.- SILCHAR
DISTRICT-CACHAR
ASSAM

9.2:ANKITA MAZUMDER
DAUGHTER OF LATE MANSUR ALAM MAZUMDER @ MINTU MAZUMDER
AND ARE RESIDENT OF GHANIALAL
NEAR SAMAYIK PRASANGA NEWS PAPER OFFICE
SILCHAR
P.O. AND P.S.- SILCHAR
DISTRICT-CACHAR
ASSAM

9.3:ANUSKA MAZUMDER
DAUGHTER OF LATE MANSUR ALAM MAZUMDER @ MINTU MAZUMDER
AND ARE RESIDENT OF GHANIALAL
NEAR SAMAYIK PRASANGA NEWS PAPER OFFICE
SILCHAR
P.O. AND P.S.- SILCHAR
DISTRICT- CACHAR
ASSAM

10:ON THE DEATH OF SAHANAJ MAZUMDER @ SUSHMITA MAZUMDER
HER LEGAL HEIRS
NAMELY

10.1:SUBRATA BHATTACHARJEE
HUSBAND OF LATE SAHANAJ MAZUMDER @ SUSHMITA MAZUMDER
AND ARE RESIDENT OF C/O MR. GURUMUKH SINGH
17/1A MIDDLE ROAD
KOLKATA- 14
WEST BENGAL.

10.2:SONAL BHATTACHARJEE
DAUGHTER OF LATE SAHANAJ MAZUMDER @ SUSHMITA MAZUMDER
AND ARE RESIDENT OF C/O MR. GURUMUKH SINGH
17/1A MIDDLE ROAD
KOLKATA- 14
WEST BENGAL

Advocate for the Petitioner : MR. D CHAKRABARTY, MS D.CHAKRABARTY

Advocate for the Respondent : MR. S D PURKAYASTHA (FOR CAVEATOR), J P BAISHYA (FOR

CAVEATOR),MR. A CHOUDHURY (FOR CAVEATOR)

BEFORE :

HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

Advocates for the Petitioner(s) : Mr. D. Chakrabarty

Advocate for the Respondent(s) : Mr. S.D. Purkayastha

Date of Hearing : **17.09.2026**

Date of pronouncement of judgment : **17.09.2026**

Whether the pronouncement is of the operative part of the judgment : Full judgment.

Whether the full judgment has been pronounced : Yes.

JUDGEMENT AND ORDER (ORAL)

The instant application under Section 115 of the CPC has been preferred by the petitioner challenging the impugned judgment dated 11.11.2025 and the decree dated 14.11.2025 passed by the learned Civil Judge Senior Division No. 2 Cachar, Silchar in Title Appeal No. 30/2004 dismissing the appeal filed by the petitioners and upholding the judgment and decree dated 31.05.2004 passed in Title Suit No. 37/1991.

2. Heard learned counsel, Mr. D. Chakrabarty for the petitioners and learned counsel, Mr. S.D. Purkayastha for the respondents.

3. The instant revision petition has a long chequered history and the chronological events of the case needs to be revisited in order to adjudicate the matter in the right perspective.

4. The petitioners were initially sub-tenants under the original tenant one Bhupendra Kumar Shee with the consent of the original landlord late Arunendu Kishor Gupta/Father of the respondent Nos. 1 & 2. After some time, the respondents herein filed a Title Suit No. 37/1991 in the Court of Munsiff No. 2 Cachar, Silchar, denying the tenancy of Bhupendra Kumar Shee, in whose shoes the petitioners had stepped into, and had prayed for an ejectment decree against the petitioners and other tenants.

5. After hearing the contesting parties, the learned Munsiff No. 2, Cachar, Silchar vide Judgment dated 31.05.2004 and decree dated 09.06.2004 in Title Suit No. 37/1991 decreed the suit ex-parte against defendants No. 1-5, 7 & 8 and on contest against defendants No. 6, 9, 10 & 11 for khas possession over the suit premises by evicting the defendants/petitioners with further direction to the defendants/petitioners to pay arrear rent for the period April 1988 to March 1991 amounting to Rs. 1440/- with interest @ 6% from the date of the filing of

the suit till realization.

6. Against the aforementioned judgment and decree passed in Title Suit No. 37/1991, the petitioners being the defendants in Title Suit No. 37/1991, preferred Title Appeal No. 30/2004 in the court of the learned Civil Judge, Senior Division No. 1 Cachar, Silchar, and the said appeal was admitted by the Appellate Court and further till disposal of the Appeal, the operation of the impugned decree dated 09.06.2004 was suspended.

7. During the pendency of Title Appeal No. 30/2004, one Raj Shekhar Saha who was a stranger to the Title Suit No. 37/1991 obtained an ex-parte decree in Title Suit No. 128/2012 from the court of learned Munsiff No. 1 Cachar, Silchar on 26.03.2013. In the said Title Suit No. 128/2012, neither the petitioners nor the defendants herein were made parties.

8. The said Raj Sekhar Saha thereafter, instituted the Title Execution Case No.16/2013 for execution of the decree dated 26.03.2013 passed in Title Suit No. 128/2012. In the said Title Execution No. 16/2013, Raj Sekhar Saha obtained a writ of symbolic possession over the suit property. The petitioners upon inquiry later came to know about the ex-parte decree obtained by the said Raj Sekhar Saha in Title Suit No. 128/2012.

9. It is also stated in the pleadings that the symbolic possession obtained by

Raj Sekhar Saha through the execution proceedings in Title Execution Case No.16/2013 was over the property under the occupation of the petitioners as tenant premises.

10. After coming to know about the ex-parte decree in Title Suit No. 128/2012 and the order of symbolic possession obtained in Title Execution No. 16/2013, the petitioners filed Title Suit No. 85/2014 in the court of Civil Judge, Cachar, Silchar and in the said suit the petitioners arrayed Raj Sekhar Saha and the respondents herein as party defendants. The Title Suit No. 85/2014 was accompanied by an application under Order 39 Rule 1 & 2 of CPC registered as MISC(J) Case No. 47/2014. The Title Suit No. 85/2014 was filed for declaration of right, title and interest over the suit premises as a derivative tenant and for permanent injunction. A further declaration was sought in the said suit to the effect that the present petitioners/plaintiffs are not bound by the judgment and decree passed in Title Suit No. 128/2012 and that the decretal property in Title Suit No. 128/2012 does not cover the schedule-1 property of the Title Suit No. 85/2014.

11. Subsequently, the MISC(J) Case No. 47/2014 filed by the petitioners praying for temporary injunction was dismissed by the Civil Judge No. 2 Cachar, Silchar by order dated 13.07.2015 and the petitioners preferred an appeal under

Order 43 Rule 1 (r) of the CPC before the Additional District Judge, FTC, Cachar, Silchar against the said order dated 13.07.2015. However, the learned Additional District Judge, FTC, Cachar, Silchar also dismissed the appeal filed by the petitioners by order dated 14.03.2022. A Revision Petition registered as CRP/52/2022 was preferred by the petitioners before this Court challenging the order dated 14.03.2022 passed by the Additional District Judge, FTC, Cachar, Silchar. The said CRP/52/2022 was also dismissed by this Court on 05.09.2022. Ultimately the petitioners have withdrawn the title suit No. 85/2014.

12. Thereafter, the said Raj Sekhar Saha filed another Title Suit registered as Title Suit No. 181/2018 in the court of Civil Judge No. 1, Cachar, Silchar, which was later transferred to the court of Munsiff No. 1 Cachar, Silchar, and re-numbered as Title Suit No. 36/2021. In this Suit, Raj Sekhar Saha sought for a decree granting him title over the land described in schedule-1 of the plaint and for delivery of symbolic possession pursuant to the judgment and decree in terms of Title Suit 128/2012. He also prayed for a declaration that the judgment and decree passed in Title Suit No. 37/1991 is illegal, void and liable to be cancelled and that the plaintiff is not bound by the said illegal decree. He also prayed for permanent and temporary injunction restraining the defendants from proceeding with the alleged illegal decree passed in Title Suit No. 37/1991. In the said Title Suit No. 36/2021, the petitioners as well as the respondents herein

have been arrayed as defendants and the said Title Suit No. 36/2021 is still pending disposal.

13. The respondents herein also filed an application under Order 21 Rule 99 and 101 CPC in Title Execution case No. 16/2013 which was registered as MISC Case No. 158/2022. In the said MISC Case No.158/2022 the respondents prayed for a decree for declaration of right, title and interest over the properties mentioned in the schedule to the plaint of Title Suit No. 128/2012 with further declaration that the said properties are part and parcel of the decree dated 31.05.2004 passed in Title Suit No. 37/1991. The respondents also prayed for a further declaration that the ex-parte decree dated 26.03.2013 passed in favour of Raj Sekhar Saha in Title Suit No. 128/2012 was obtained fraudulently and on suppression of facts. Eventually the said MISC Case No. 158/2022 filed by the respondents herein was also dismissed by an order dated 14.05.2025 passed by the Civil Judge, Junior Division No. 1 Cachar, Silchar.

14. In the meantime, since the Title Appeal No. 30/2004 filed by the petitioners against the decree dated 31.05.2004 was still pending, the petitioners filed an application under Order 1 Rule 10 (2) and Order VI Rule 17 and Order XLI Rule 33 r/w Section 151 CPC praying for adding necessary party and amendment incorporating subsequent events in the memo of appeal before

the Civil Judge No. 2 Cachar, Silchar. The application was registered as MISC (J) Case No. 77/2021. In the said application the petitioner prayed for adding Rajsekhar Saha and Deb Dullal Dutta Purakayastha as respondents in Title Appeal No. 30/2004.

15. After hearing the parties, the learned Civil Judge, Senior Division No. 2 Cachar, Silchar dismissed the MISC (J) Case No. 77/2021 by an order dated 02.09.2025. Aggrieved by the said dismissal, the petitioner came before this Court against order dated 02.09.2025 by filing CRP(IO)./425/2025. However, the said CRP (IO)./425/2025 was withdrawn by the petitioner and it was disposed of on withdrawal on 14.11.2025.

16. It is the stand of the petitioners in their pleadings that the petitioners at the time of final arguments in Title Appeal No. 30/2004 submitted before the Appellate Court regarding the vital developments which occurred subsequent to the filing of the Title Appeal No. 30/2004. It was argued before the Appellate Court that, the title and ownership of the suit property had changed as Raj Sekhar Saha has obtained the decree in his favour in Title suit No. 128/2012 and also in view of the fact that the application filed by the respondents herein under Order 21 Rule 99 & 101 CPC in Title Execution Case No. 16/2013 had been rejected. Such developments had to be taken note of by the learned

Appellate Court. However, without considering such developments and without any reference to the subsequent Title suit No. 128/2012 and Title suit No. 36/2021, the learned Civil Judge, Senior Division No. 1 Cachar, Silchar disposed of the Title appeal 30/2004 by impugned judgment dated 11.11.2025 and decree dated 14.11.2025 upholding the judgment and order dated 31.05.2004 passed in Title suit 37/1991. Being aggrieved the petitioners are before this Court in the present Revision Petition under Section 115 of the CPC.

17. Learned counsel for the petitioners, Mr. D. Chakrabarty, submits that the learned court below had committed jurisdictional error in not considering the fact that in Title Suit No. 128/2012 the Trial Court had decreed the suit in favour of Raj Sekhar Saha and he had taken symbolic possession of the entire suit land during the execution of the decree in Execution Case No. 16/2013. However, the learned court below has ignored such developments by dismissing the Title Appeal No. 30/2004.

18. Learned counsel also submits that the learned court below did not appreciate the vital aspect that while the respondents and Raj Sekhar Saha were claiming that they are the landlord of the suit premises, the issue has been put to a conclusion with the dismissal of the application filed by the respondents under Order 21 Rule 99 & 101 CPC. Therefore, the respondents had ceased to

be the owners of the tenanted premises and are not entitled to execution of a decree of ejectment of the petitioners from the said premises under the provisions of the Assam Urban Areas Rent Control Act, 1972.

19. It is further submitted by the learned counsel for the petitioners that the learned court below did not take into account the changed circumstances which had taken place during the pendency of the Title appeal and because of which the judgment and decree of ejectment passed in Title Suit No. 37/1991 has become un-executable. He submits that the learned court below did not consider that the respondents herein are no longer the owners or landlords of the disputed tenanted premises.

20. Another ground taken by the petitioner is that the learned court below failed to appreciate the legal position under the changed circumstances that if the petitioners are to be evicted from the premises under their occupation, it has to be at the instance of Raj Sekhar Saha and not the respondents herein. It is the submission of the learned counsel that the eviction of the petitioners under due process of law is now possible only after adjudication of the Title Suit No. 36/2021 and not by virtue of the eviction decree passed in Title Suit No. 37/1991.

21. *Per contra*, the learned counsel, Mr. S.D. Purkayastha appearing for the

respondents has resisted the contentions of the petitioners by stating that the petitioner's status as a sub-tenant is particularly important in the present case. It is an admitted fact that the petitioner is a sub-tenant under the original landlord i.e., the principal respondent herein. The first Title Suit No. 37/1991 resulted in a decree in favour of the respondents and the tenant's obligation under that decree cannot be avoided merely because the third person subsequently obtained a decree in a separate suit to which neither the petitioner nor the respondents was a party. The tenant's position is derivative of the landlord's title/interest for the purpose of the tenancy. In the context of eviction proceedings, it is well settled that the landlord-tenant relationship ordinarily constitutes the essential controversy between those parties.

22. Learned counsel, by relying on the case of ***Promod Hazarika Vs. Haren Das***, reported in ***2005 (Supp) GLT 453*** and ***Hindustan Petroleum Cooperation Ltd. Vs. Dilbahar Singh***, reported in (***2014) 9 SCC 78***, has apprised this Court regarding the scope of the revisional court under Section 115 of the CPC. In the case of *Promod Hazarika (supra)* it was held that it is not the duty of the revisional court to embark upon a re-appreciation of the evidence to find out as to which appreciation of the evidence made by the two learned courts below is a better appreciation unless the appreciation of the evidence by the learned court below is patently wrong and unless the conclusion

reached are unreasonably perverse, interference of the revisional court exercising jurisdiction under Section 115 of the CPC will not be called for. Learned counsel submits that in a case such as the present revision where there are concurrent findings of two subordinate courts, this Court would be slow to interfere.

23. In the case of *Dilbahar Singh (Supra)*, the Supreme Court held that in exercise of revisional jurisdiction, the High Court shall not exercise its appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of re-consideration of all questions of fact as a court of first appeal. When the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.

24. Learned counsel has further relied on the case of ***Jaspal Kaur Cheema and Another Vs. Industrial Trade Links and Ors***. reported in ***(2017) 8 SCC 592***. In this cited case, the Supreme Court held that the tenant who has been let into possession cannot deny his landlord's title, however defective it may be, so long as he has not openly restored possession by surrender to his landlord. The Supreme Court further held that the principle of estoppel arising

from a contract of tenancy is based upon the principal of law and justice and a tenant who could not have got possession but for a contract of tenancy admitting the right of the landlord, should not be allowed to his landlord in some inequitable situation taking undue advantage of the position that he got and any probable defect in the title of his landlord.

25. Learned counsel also submits that the first appellate court had passed a speaking order on 02.09.2025 in MISC (J) case No. 77/2021 rejecting the application of the petitioners for amendment of the memo of appeal and the impleadment. That rejection order dated 02.09.2025 was challenged by the petitioners in CRP(IO)./425/2025. However, the petitioners had withdrawn the said CRP(IO)./425/2025 and it was disposed of on 14.11.2025. While the said Revision Petition was pending before this Court the first appellate court decided the Title Appeal No. 30/2004 on merits. Therefore, by filing the instant revision petition against the appellate judgment dated 11.11.2025 in Title Appeal No. 30/2004, the petitioner is indirectly challenging the rejection of the amendment application MISC (J) case No. 77/2021 again, which is not permissible.

26. Learned counsel for the respondents further submits that the dispute between the petitioners and the respondents started in the year 1991 and the petitioners had filed the Title Appeal No. 30/2004 in the year 2004 and it was

finally disposed of on 11.11.2025, after a period of 21 (twenty one) years and till date the petitioners have not paid any arrears of rent due to the respondents in pursuance of the decree in Title Suit No. 37/1991 and by filing one application after the other have been dragging the dispute for all these years.

27. In view of the submission made above, learned counsel for the respondent submits that the petitioners have miserably failed to make out a case to invoke the jurisdiction of this Court under Section 115 of the CPC and the petition deserves to be dismissed.

28. I have given due consideration to the submissions made by the learned counsel for the parties, and I have perused the pleadings and also the judgments relied upon by the parties.

29. It is settled law that Section 115 CPC is not a second appeal. This Court in a revision petition cannot: i) re-appreciate the evidence. ii) substitute its own finding of fact merely because another view is possible. iii) correct every erroneous finding of law. iv) re-assess credibility of witnesses or (v) interfere merely because the sub-ordinate court has reached what the High Court considers an incorrect conclusion.

30. It has been held in a catena of decision that revisional jurisdictional is essentially directed at jurisdictional errors and not ordinary errors of fact or law,

specially, when there are concurrent findings of the subordinate courts.

31. The chronology of events is important in the instant case. The first Title Suit 37/1991 was decreed in favour of the respondents and against the petitioners. Admittedly the respondents are the landlords and the petitioners are sub-tenants. The petitioners preferred the Title Appeal No. 30/2004 against the decree in Title Suit No. 37/1991. During the pendency of the appeal, a stranger to the proceedings i.e., Raj Sekhar Saha instituted a separate Title suit concerning the same property and obtained a decree without impleading the petitioners or the respondents.

32. The petitioners filed the MISC (J) case No. 77/2021 in the Title appeal seeking amendment and impleadment of Raj Sekhar Saha. However, the first appellate court passed a speaking order dated 02.09.2025 rejecting the MISC (J) case No. 77/2021. The petitioner thereafter challenged that rejection by a separate Section 115 CPC Revision petition before this Court which was registered as CRP (IO) 425/2025. The said CRP has already been disposed of upon withdrawal by the petitioner on 14.11.2025. While CRP (IO) 425/2025 was pending, the learned court below decided the Title Appeal No. 30/2004 by passing the impugned order dated 11.11.2025. It is also observed that the Title Suit No. 36/2021 filed by Raj Sekhar Saha against the petitioners and the

respondents remains pending.

33. It is the opinion of this Court that the rejection of the amendment/impleadment application i.e., MISC (J) case No. 77/2021 was made by a speaking judicial order and the petitioners had already invoked the revisional jurisdiction of this Court against that very order. Therefore, this is not a case where the appellate court simply overlooked the application of the petitioner. The petitioner knew about the rejection, challenged it independently and thereafter, withdrew the challenge because the Title appeal had already been decided.

34. In view of the above circumstances, the petitioners cannot turn around and submit that the appellate court failed to exercise its jurisdiction by not considering his prayer for amendment/impleadment. I am of the considered opinion that the appellate court has exercised its jurisdiction over the application. The petitioners may disagree with the decision, but that is not the same as failure to exercise jurisdiction. In fact, the petitioners by filing the instant petition are trying to circumvent the consequences of the rejection of MISC (J) case No. 77/2021 by assailing the same order indirectly.

35. This Court has also observed that in the instant petition the petitioners have not challenged the findings of the appellate court in Title Appeal No.

30/2004 on merits but only on the ground that the appellate court did not consider the prayer of the petitioners for impleadment/amendment.

36. This Court has already held that there was no failure to exercise jurisdiction by the appellate court as the court had already considered the application of the petitioner for impleadment/amendment on merits and had dismissed the same by a speaking order dated 02.09.2025. Since the application of the petitioner has already been disposed by a reasoned order, the appellate court was not required to reproduce or reconsider that application in the final judgment. Moreso, due to the fact that at the time when the appellate court delivered the final judgment on 11.11.2025, the impleadment/amendment application was no longer pending before the court. The petitioners cannot equate absence of discussion with failure to exercise jurisdiction. The records have already established that jurisdiction was exercised earlier in the order dated 02.09.2025 and the petitioners themselves had recognized that order as an independent, challengeable order because they had filed CRP(IO) No. 425/2025 against that order. In substance, the petitioner is seeking to re-open the impleadment/amendment application through the instant petition.

37. In view of the observations made herein above and the findings arrived at, this Court is of the view that the petitioners have not been able to make out a

case for the interference of this court under Section 115 CPC. Resultantly, the Petition stands dismissed.

38. No order as to costs.

39. Registry is directed to send back the Trial Court Records.

JUDGE

Comparing Assistant