

GAHC010015522025



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

Case No. : CRP(IO)/32/2025

ABDUR RAHIM SIKDAR
S/O LATE SUKUR MAMUD
RESIDENT OF VILAGE BAMUNDONGRA, PO HABI DONGRA, PS
BAGHBAR, DIST BARPETA, ASSAM

2: KASER UDDIN AHMED
S/O LATE ATAR ALI

RESIDENT OF VILAGE BAMUNDONGRA
PO HABI DONGRA
PS BAGHBAR
DIST BARPETA
ASSA

VERSUS

ABU BAKKAR SIDDIK @ ABU BAKKAR SIDDIQUE
S/O HAJI ABDUL GONI MIYA, RESIDENT OF VILLAGE LEJAM, PO
CHUNARI, PS LAKHIPUR, DIST GOALPARA, ASSAM

For the Petitioner(s) : Mr. B.D. Deka, Advocate
Mr. N. Choudhury, Advocate

For the Respondent(s) : None appears

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 29.01.2025

Issue notice making it returnable by 19.02.2025.

2. The petitioners are directed to take steps upon the sole respondent by way of Registered Post with A/D as well as through usual process during the course of the day.
3. In addition to that, the petitioners are further directed to take steps upon the respondent by way of Dasti routed through the Registry of this Court and file an affidavit of service on or before the next date.
4. The petitioners herein have assailed the order dated 24.07.2024 passed in Title Appeal No.1/2022 whereby the learned First Appellate Court i.e. the Court of the learned Additional District Judge, Goalpara had permitted the appellant therein to adduce additional evidence by exercising its discretion conferred under Order XLI Rule 27 of the Code of Civil Procedure, 1908.
5. The learned counsel appearing on behalf of the petitioners submitted that a perusal of the application so filed by the appellant does not make out a case for the purpose of granting the leave to the appellant to adduce additional evidence. There is no basis or foundation laid in the trial proceedings as regards these witnesses. Further to that, the execution and the contents of Exhibit-1 having already been admitted by both the parties, the question of permitting additional evidence and that too at the appellate stage is not in consonance with the judgment of the Supreme Court in the case of ***Union of India Vs. Ibrahim Uddin and Another*** reported in ***(2012) 8 SCC 148***.
6. This Court having taken into account the above submissions made by the learned counsel appearing on behalf of the petitioners prima facie

is of the opinion that the exercise of jurisdiction by the learned First Appellate Court seems to be erroneous. Be that as it may, the said aspect can be further ascertained upon hearing the respondent.

7. Accordingly, this Court finds that the petitioners have been able to make out a case for the purpose of stay of further proceedings in Title Appeal No.1/2022 till the next date.

8. Accordingly, the further proceedings of Title Appeal No.1/2022 stands suspended till the next returnable date.

9. List accordingly.

JUDGE

Comparing Assistant