

GAHC010027032025



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

Case No. : CRP/12/2025

MD SAFIQR RAHMAN BARBHUIYA
S/O- LATE ZIZAZUR RAHMAN BARBHUIYA, R/O- SRIKONA PT- II, P.S-
SILCHAR, DIST- CACHAR, ASSAM

VERSUS

PUSHPATI RANI DEY AND 4 ORS
W/O- LATE AJOY KR DEY R/O- VILL- SRIKONA PT-I, P.S- RAJNAGAR, P.O-
SRIKONA, DISTR- CACHAR, ASSAM

2:SRI AMITAVA DEY
S/O LATE AJOY KR DEY

R/O- VILL- SRIKONA PT-I
P.S- RAJNAGAR
P.O- SRIKONA
DISTR- CACHAR
ASSAM

3:SRI ASHIM KR DEY
S/O LATE AJOY KR DEY

R/O- VILL- SRIKONA PT-I
P.S- RAJNAGAR
P.O- SRIKONA
DISTR- CACHAR
ASSAM

4:SRI DWIHENDRA KUMAR DEY
S/O LATE BIRENDRA KUMAR DEY @ DEB

R/O- VILL- SRIKONA PT-I

P.S- RAJNAGAR
P.O- SRIKONA
DISTR- CACHAR
ASSAM

5:SRI BIDHAN CHANDRA DEY
S/O LATE BIRENDRA KUMAR DEY @ DEB

R/O- VILL- SRIKONA PT-I
P.S- RAJNAGAR
P.O- SRIKONA
DISTR- CACHAR
ASSA

For the petitioner (s) : Mr. S. Dutta, Sr. Advocate

Ms. K. Borah, Advocate

For the respondent (s) : XXXX

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

11.02.2025

Heard Mr. S. Dutta, the learned senior counsel appearing on behalf of the petitioner.

2. Issue notice making it returnable on 24.02.2025.
3. Steps be taken upon the respondent Nos.1 to 5 by way of registered post with A/D as well as through usual process during the course of the day.
4. It has been submitted by Mr. S. Dutta, the learned senior counsel appearing on behalf of the petitioner that the next date

in Title Suit No.2/2024 (originally registered as Title Suit No.95/2005) is fixed tomorrow, i.e. on 12.02.2025.

5. The petitioner is directed to effect service of the instant petition upon the learned counsel representing the plaintiffs by tomorrow, i.e. on 12.02.2025 before the learned Trial Court and file an affidavit in that regard on or before the next date.

6. The petitioner herein has challenged the order dated 17.05.2024 passed by the Court of the learned Civil Judge (Junior Division) No.3. Cachar, Silchar in Title Suit No.2/2024 whereby the learned Trial Court taking into account that the suit was pending for the purpose of filing of defendants evidence since 2018 had closed the evidence of the defendants. It is seen that thereupon the petitioners had filed an application for review of the said order which was rejected vide the order dated 04.10.2024 and it is under such circumstances, the petitioner is before this Court.

7. The learned senior counsel for the petitioner submits that the petitioner herein could not submit the evidence as he was given the impression that as the Court was not functioning during this period, there was no requirement for submitting the evidence and it is under such misapprehension, the petitioner did not take any steps in that regard. The learned senior counsel for

the petitioner submits that the petitioner is ready with his evidence on affidavit and can be submitted on any date if this Court directs.

8. Taking into that the right of filing evidence is a substantive right, this Court for the interest of justice stays the further proceedings of Title Suit No.2/2024 till the next date.

9. This Court upon hearing the learned counsel appearing on behalf of the respondents shall duly take a call as to whether the order dated 17.05.2024 can be interfered with under Article 227 of the Constitution.

JUDGE

Comparing Assistant