

GAHC010027032025



2026:GAU-AS:2209

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

Case No. : CRP/12/2025

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

VERSUS

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

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

R/O- VILL- SRIKONA PART-I
P.S- RAJNAGAR
P.O- SIRKONA
DISTRICT- CACHAR
ASSAM.

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

R/O- VILL- SRIKONA PART-I
P.S- RAJNAGAR
P.O- SIRKONA
DISTRICT- CACHAR
ASSAM.

4:SMTI BINITA DEY
W/O LATE BIDHAN CHANDRA DEY R/O- VILL- SRIKONA PART-I
P.S- RAJNAGAR
P.O- SIRKONA

DISTRICT- CACHAR
ASSAM.

5:SRI BIJIT KUMAR DEY
S/O LATE BIDHAN CHANDRA DEY R/O- VILL- SRIKONA PART-I
P.S- RAJNAGAR
P.O- SIRKONA
DISTRICT- CACHAR
ASSAM

Advocate for the Petitioner : MR. A BISWAS, MS S MOCHAHARI,MS K BORAH,MR.
SIDHANT DUTTA,MR SISHIR DUTTA

Advocate for the Respondent : MR. S K GHOSH (R1-R3), MS F AHMED (R1-R3)

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 16.02.2026

Heard Mr. A. Biswas, learned counsel for the petitioner. Also heard Mr. S.K. Ghosh, learned counsel for the respondents.

2. In this petition, under Article 227 of the Constitution of India, read with Section 151 of the CPC, the petitioner has challenged the order dated 04.10.2024, passed by the learned Civil Judge (Junior Division) No. 3, Cachar, Silchar, in Misc. Case No. 103/2024, arising out of Title Suit No. 95/2005, and also the order dated 17.05.2024, passed by the learned Civil Judge (Junior Division) No. 3, Cachar, Silchar, in Title Suit No. 95/2005.

3. It is to be noted here that vide impugned order dated 04.10.2024, the learned Civil Judge (Junior Division) No. 3, Cachar, Silchar ('trial Court', for short) had dismissed the petition No. 151/10, filed under Order 47 Rule 1 CPC, read with Sections 114, 151 CPC, for review of the order dated 17.05.2024, passed in Title Suit No. 95/2005. It is also to be noted here that vide impugned

order dated 17.05.2024, the learned trial Court had closed the evidence of D.W. and fixed the next date on 21.06.2024, for argument.

4. Mr. Biswas, learned counsel for the petitioner submits that the petitioner could not file the evidence of D.W. within time though sufficient opportunities were afforded to him, and that he had filed his written statement and unless the petitioner is allowed to file the evidence of D.W., then he would not be able to establish his case during trial and on such count, serious prejudice will be caused to him. Mr. Biswas also submits that the petitioner is ready to pay some cost and under such circumstances, it is contended to allow this petition by giving an opportunity to the petitioner to adduce evidence of D.W. by imposing some cost.

5. On the other hand, Mr. Ghosh, learned counsel for the respondents has vehemently opposed the petition. By referring to various orders passed by the learned trial Court, he submits that ample opportunities, covering a period of more than 13 years were granted to the petitioner herein to file the evidence of D.W. and ultimately, two last opportunities were granted to him on 20.10.2022 and also on 30.01.2021, and in spite of getting last opportunities, the petitioner had failed to file evidence of D.W., and under such circumstances, granting further opportunity to the petitioner to file evidence of D.W. would cause serious prejudice to the respondents. Mr. Ghosh by referring to a decision of a Co-ordinate Bench of this Court, dated 26.07.2017, in CRP No. 232/2015, submits that the petitioner has exhausted all his remedies and the said CRP No. 232/2015, was also dismissed by this Court. Mr. Ghosh further submits that the suit is more than two decades old and under such circumstances, he has contended to dismiss the petition.

6. Having heard the submissions of learned counsel for both the parties, I

have carefully gone through the petition and the documents placed on record, and also perused the impugned order dated 04.10.2024, passed by the learned trial Court, in Misc. Case No. 103/2024, arising out of Title Suit No. 95/2005, and also the impugned order dated 17.05.2024, passed by the learned trial Court, in Title Suit No. 95/2005, and also gone through the certified copy of the orders, so passed by the learned trial Court, in Title Suit No. 95/2005, produced before this Court, and also gone through the order dated 26.07.2017, passed by a Co-ordinate Bench of this Court, in CRP No. 232/2015.

7. It appears that vide order dated 31.08.2013, the learned trial Court had closed the evidence of P.W. and fixed the next date on 27.09.2013, for evidence of D.W. Further, it appears that thereafter, sufficient opportunities were afforded to the petitioner for evidence of D.W., but he failed to avail the same, and thereafter, vide order dated 30.01.2021, last opportunity was granted to the petitioner for evidence of D.W. It further appears that vide order dated 20.10.2022, another last opportunity was granted to the petitioner for evidence of D.W. But, in spite of getting such ample opportunities covering a period of 13 years and two last opportunities, the petitioner has failed to file the evidence of D.W.

8. It is not in dispute that the suit is pending since the year 2005 and more than two decades have already elapsed, and under such circumstances, if the petitioner is allowed to adduce evidence of D.W., then it will cause serious prejudice to the respondents, and as such, this Court is of the view that there is no merit in this petition and accordingly, the same stands dismissed.

9. The parties are directed to appear before the learned trial Court to receive further order.

10. Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant