

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

For the respondent (s) : Mr. S. K. Ghosh, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

12.03.2025

Heard Mr. S. Dutta, the learned senior counsel appearing on behalf of the petitioner. Mr. S. K. Ghosh, the learned counsel appears on behalf of the respondents.

2. Mr. S. Dutta, the learned senior counsel appearing on behalf of the petitioner submits that he requires further time for filing the application to bring on record the legal representatives of the Respondent No.5

3. Mr. S. K. Ghosh, the learned counsel appearing on behalf of the respondents submits that the respondent Nos.4 & 5 have

also expired and the same was duly informed to this Court on 24.02.2025. Mr. S. K. Ghosh, the learned counsel appearing on behalf of the respondents further submits that the respondent Nos.4 & 5 had already been substituted in the Trial Court long time back, and as such, on this ground, the instant petition should be dismissed.

4. This Court finds it relevant to observe that vide an order dated 11.02.2025, the further proceedings of Title Suit No.2/2024 (originally registered as Title Suit No.95/2005) which is almost two decades old, was stayed by this Court. Subsequent thereto, Mr. S.K. Ghosh, the learned counsel for the respondents had appeared before this Court and intimated that on 24.02.2025, the respondent Nos.4 & 5 had expired and they had also been substituted before the learned Trial Court. In spite of that, this Court granted opportunity to the petitioner to take steps and extended the interim order on 05.03.2025. When the matter came up on 05.03.2025, on that date also no steps were taken, and accordingly, the matter has been fixed today.

5. The learned senior counsel appearing on behalf of the petitioner submits that he requires further more time for filing the application.

6. It is relevant to observe that if the plaintiff Nos.4 & 5 in the

suit had already been substituted in the trial, there should not have any delay in filing such an application to strike off the names of the Respondent Nos.4 & 5 and add their legal representatives who are already there before the learned Trial Court. It appears that on account of a stay being granted by this Court to the suit, this ploy is being employed to delay the present proceedings.

7. Considering the above, this Court fixes this matter on 24.03.2025.

8. This Court further observes that if no appropriate application is being filed for inserting the parties, this Court would have no other option but to dismiss the instant petition. However, taking into account the ploy employed by the petitioner herein to delay the instant proceedings and consequently delayed the suit, this Court imposes the cost of Rs.10,000/- upon the petitioner which has to be deposited before the Registry of this Court on or before 21.03.2025.

9. The interim order passed earlier shall continue till the next date.

JUDGE

Comparing Assistant