

GAHC010027042017



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

Case No. : FAO/35/2017

AMIR ALI and 3 ORS
S/O RAJAN ALI

2: TAIABUR RAHMAN @ TERA MIA

S/O REJAN ALI

3: ABDUL BASIT
S/O LATE JAMIR ALI

4: ABDUR ROUF
S/O LATE TAMIR ALI
ALL ARE R/O VILL. JALALPUR
P.O. MALUA
P.S. BADARPUR
DIST. KARIMGANJ
ASSA

VERSUS

MUSSTT NURUBI BIBI @ MUSSTT KARUN BEGUM and 20 ORS
D/O LATE ARJAN ALI, W/O EKLAS ALI, VILL. SWASTAGRAM, P.O.
UMARPUR, P.S. BADARPUR, DIST. KARIMGANJ, ASSAM 788806

2:MUSSTT. SOLIMA BEGUM

D/O LATE ARJAN ALI
VILL. JALALPUR
P.O. MALUA
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM 788806

3:MOIMUNNESSA @ EKLIMA

D/O LATE ARJAN ALI
W/O ABDUL NOOR
VILL. WEST HASHANPUR
P.O. MOHAKAL BLOCK
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM 788806

4:MOKHLIMA BEGUM

D/O LATE ARJAN ALI
W/O ANGUR ALI
VILL. DEORAIL
P.O. and P.S. BADARPUR
DIST. KARIMGANJ
ASSAM 788806

5:FATIMA BEGUM

D/O LATE ARJAN ALI
W/O SIRAJ UDDIN
VILL. NOYAPATHAN
P.O. BHANGABAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM 788701

6:THE STATE OF ASSAM

REPRESENTED BY THE DEPUTY COMMISSIONER
KARIMGANJ
P.O.
P.S. and DIST. KARIMGANJ
ASSAM
PIN 788710

7:THE CIRCLE OFFICER

BADARPUR
P.O. and P.S. BADARPUR
DIST. KARIMGANJ
ASSAM
PIN 788710

8:THE SUB REGISTRAR
BHANGABAZAR
P.O. BHANGABAZAR

P.S. BADARPUR
DIST. KARIMGANJ
ASSAM
PIN 78871

Advocate for the Petitioner : MRS.R CHOUDHURY, MS.N BEGUM,MS.A BEGUM

Advocate for the Respondent : MR. M H RAJBARBHUIYAN(R-2,3,4,5), ADDL. SR. GA, ASSAM
(R-6,7,8),MR G BHARADWAJ(R-2,3,4,5)

With
I.A.(Civil) Case No. 3822/2025
In
FAO Case No. 35/2017

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

15.12.2025

- 1.** Heard Ms. R. Choudhury, the learned counsel for the appellants. Also heard Mr. K.K. Bhattacharya, the learned Government Counsel appearing for the respondent Nos. 6 to 8.
- 2.** The learned Government Counsel Mr. K.K. Bhattacharge submits that though an application for substituting the legal heirs/legal representatives of the deceased respondent No. 1 has been filed by the present appellants and I.A. No. 3822/2025 has been registered, however, it appears from the record that that the respondent No. 1 died on 25.01.2019 and thus, the appeal against the said respondent has abated after 90 days from the said date.
- 3.** He further submits that this application for the connected interlocutory application for substituting the legal heirs of deceased

respondent under Order 22 Rule 4 is not maintainable.

4. The learned counsel for the appellants in I.A.(Civil) No. 3822/2025, has submitted that the present appellants has filed a composite application making three prayers for condonation of delay in filing the substitution petition, setting aside of the abatement and allowing the substitution of the legal heirs/legal representatives of the deceased respondent No. 1.

5. She further submits that in the meanwhile the legal representatives of deceased respondent No. 1/ defendant No. 1 has already appeared before the trial court and has prayed for substituting their names, which has been allowed by the trial court. She however, submits that she may be granted some time to file an additional affidavit or appropriate application to bring on record certain facts which are relevant for consideration of the substitution application.

6. The prayer is allowed.

7. Let this matter be listed on 29th January, 2026.

8. Interim order passed earlier shall continue till then.

JUDGE

Comparing Assistant