

GAHC010030682026



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

Case No. : Crl.Pet./239/2026

SHREE VISHWANATH MARWARI DATABYA AUSHDHALAYA AND 16 ORS.
A REGISTERED SOCIETY HAVING ITS OFFICE AT ASSAM TRUNK
ROAD,P.O., P.S. AND DIST. DIBRUGARH, ASSAM, PIN-786001,
REPRESENTED BY ITS PRESIDENT AND SECRETARY.

2: SRI RAJAN LOHIA
SON OF LATE JHABARMAL LOHIA
THE PRESIDENT
SHREE VISHWANATH MARWARI DATABYA AUSHDHALAYA
AT ASSAM TRUNK ROAD
P.O.
P.S. AND DIST. DIBRUGARH
ASSAM
PIN-786001

3: SRI ANIL KUMAR PODDAR
SON OF LATE BISWANATH PODDAR
THE SECRETARY
SHREE VISHWANATH MARWARI DATABYA AUSHDHALAYA
AT ASSAM TRUNK ROAD
P.O.
P.S. AND DIST. DIBRUGARH
ASSAM
PIN-786001

4: SRI JYOTI PRASAD KANOI
SON OF LATE SITARAM KANOI
RESIDENT OF ZIG ZAG ROAD
CHOWKIDINGHEE DIBRUGARH
ASSAM
PIN-786001.

5: SRI SAJJAN KUMAR KEJRIWAL
SON OF LAE MAHABIR PRASAD KEJRIWAL

RESIDENT OF TARUN SAMITY LANE
SHANTI PARA
DIBRUGARH
ASSAM
PIN-786001

6: SRI BADRI GARODIA
SON OF LATE DEBIDUTT GARODI
RESIDENT OF LAL BAHADUR SHASTRI MARG
PALTAN BAZAR
DIBRUGARH
ASSAM
PIN-786001.

7: SRI BAJRANG DHANUKA
SON OF LATE BABULAL DHANUKA
RESIDENT OF ELECTRICAL ENTERPRISE
H.S. ROAD
DIBRUGARH
ASSAM
PIN-786001.

8: SRI NIRMAL GARODIA
SON OF LATE RADHAKISHAN GARODIA
RESIDENT OF BABULAL PODDAR
PATH
JHALUKPARA
DIBRUGARH
ASSAM
PIN-786001.

9: SRI ARUN BAGARIA
SON OF LATE RADHA SHYAM BAGARIA
RESIDENT OF SHANI MANDIR ROAD
JHALUKPARA
DIBRUGARH
ASSAM
PIN-786001.

10: SRI VIJAY AGARWAL
SON OF LATE MAHABIR PRASAD AGARWALLA
RESIDENT OF GANPATI MARBLES
B.N. MODI ROAD
DIBRUGARH
ASSAM
PIN-786001.

11: SRI ASHOK TULSYAN
SON OF LATE LOKNATH TULSYAN
RESIDENT OF H.S. ROAD
DIBRUGARH
ASSAM
PIN-786001.

12: SRI RAJ KUMAR AGARWAL
SON OF LATE KHYALLRAM AGARWALLA
RESIDENT OF MAHALAYA ROAD
NEAR GOVERNMENT BOYS SCHOOL FIELD
JHALUKPARA
DIBRUGARH
ASSAM-786001.

13: SRI ANKUR BAWARI
SON OF SRI KISHANLAL BAWARI
RESIDENT OF C/O KL AGENCY
NEAR JAIN MANDIR
NEW MARKET
DIBRUGARH
ASSAM
PIN-786001

14: SRI RAKESH GARODIA
SON OF LATE BAJRANGLAL GARODIA
RESIDENT OF C/O LN.N. GARODIA
R.K.B. PATH
DIBRUGARH
ASSAM
PIN-786001

15: SRI SANDEEP CHAMARIA
SON OF SRI SHYAM SUNDAR CHAMARIA
RESIDENT OF C/OM/S SHYAM MOTORS
KHEMKA MARKET
R.K.B. PATH
DIBRUGARH
ASSAM
PIN-786001

16: SRI SHASHI AGARWAL
SON OF LATE MADANLAL AGARWAL
RESIDENT OF C/O SANJAY TRADERS
NEAR INDIAN BANK
R.N.C. PATH
DIBRUGARH
ASSAM

PIN-786001.

17: SRI BINAY GARODIA
SON OF SRI BISWANATH GARODIA
RESIDENT OF GS MODI ROAD
DIBRUGARH
ASSAM
PIN-786001

VERSUS

SRI PRAPHULL JAIN
SON OF LATE CHANDRABHAN JAIN,
RESIDENT OF JHALUKPARA, DIBRUGARH, ASSAM, PIN-786001.

Advocate for the Petitioner : MR. BHASKAR DUTTA, SENIOR ADVOCATE, MS L
RONGPIPI,MR JITENDRA DAS,MR. SAILENDRA DEKA

Advocate for the Respondent : ,

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

20-02-2026

Heard Mr. B. Dutta, learned Senior Counsel assisted by Mr. S. Deka, learned counsel for the petitioners.

This is an application under Section 528 BNSS praying for quashing of the impugned proceeding of C.R. Case No. 06/2026, pending before the Court of learned Judicial Magistrate, First Class, Dibrugarh under Sections 61/351/356/196.

Issue notice to the sole respondent through speed post as well as through usual process.

Registry shall call for the scanned copy of the TCR.

It is submitted by Mr. Dutta, learned Senior Counsel that there is a procedural irregularity while issuing notice to the petitioners, even without recording the statement of the complainant, the notice was directly issued by the first order after receiving the complainant by the learned Trial Court.

He further submitted that as per Section 223 of the BNSS, it is the duty of the Magistrate to issue notice after recording of the statement of the complainant and to take cognizance after hearing the other side/accused person. Accordingly, he submitted that it is a procedural irregularity while issuing notice to the petitioners and accordingly he prayed for stay of the further proceeding in C.R. Case No. 06/2026.

Considering the submissions made by the learned counsel for the petitioner, let the further proceeding in connection with C.R. Case No. 06/2026, pending before the Court of learned Judicial Magistrate, First Class, Dibrugarh be stayed till next date of listing.

List this matter on **24.03.2026**.

JUDGE

Comparing Assistant