

GAHC010077272026



2026:GAU-AS:5654

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

Case No. : CRP(IO)/136/2026

DINABANDHU RAY AND ANR
SON OF LATE BISWANATH RAY, R/O VILL- BARPATHAR, P.O- NEW
BONGAIGAON, P.S AND DIST- BONGAIGAON, ASSAM

2: DHANESWAR RAY
SON OF LATE BISWANATH RAY
R/O VILL- BARPATHAR
P.O- NEW BONGAIGAON
P.S AND DIST- BONGAIGAON
ASSA

VERSUS

BADAL NATH
SON OF LATE BIPIN CH. DEBNATH, R/O R.P.F. LINE, B.G. COLONY, P.O-
NEW BONGAIGAON, P.S AND DIST- BONGAIGAON, ASSAM, PIN- 783381

Advocate for the Petitioner : MR. B J MUKHERJEE, MS R SAHA

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

24.04.2026

Heard Mr. B. J. Mukherjee, learned counsel for the petitioners.

2. In this petition, under Article 227 of the Constitution of India, read with Section 151 of the Code of Civil Procedure, the petitioners have challenged the Order, dated 05.02.2026, passed by the learned Civil Judge (Sr. Div.), Bongaigaon, in T.S. No. 30/2016.

3. It is to be noted here that vide impugned order, dated 05.02.2026, the learned Civil Judge (Sr. Div.), Bongaigaon (hereinafter, learned Trial Court), has dismissed the petition No. 414/2026, filed by the learned counsel for the petitioners, for adjournment of the case.

4. Mr. Mukherjee, learned counsel for the petitioners submits that the petitioners are defendants in Title Suit No. 30/2016, which is pending before the learned Trial Court.

4.1 Mr. Mukherjee further submits that in the said Title Suit, survey report was called for from the Circle Officer and accordingly, the Circle Officer had submitted the survey report on 22.08.2025.

4.2 Mr. Mukherjee also submits that the petitioners herein have prayed for allowing them to examine the Circle Officer and vide order, dated 19.12.2025, his prayer was allowed. But, due to a mistake on the part of the engaged counsel of the petitioner, steps could not be taken to summon the Circle Officer, for which, the petitioners have been denied the opportunity to cross examine the Circle Officer and vide impugned order, dated 05.02.2026, the evidence was closed and the case was fixed on 11.03.2026, for argument after rejecting the application for adjournment. And now, the date is re-fixed on 20.04.2026.

4.3 It is the further submission of Mr. Mukherjee that only one opportunity may be granted to the petitioners, so as to enable him to cross examine the Circle Officer, else, serious prejudice will be caused to them.

- 5.** Having heard the submission of the learned counsel for the petitioner, this Court has carefully gone through the petition and the documents placed on record and also perused the impugned order, dated 05.02.2026.
- 6.** It appears that only one opportunity was given to the petitioners herein to examine the Circle Officer, but, due to a mistake on the part of the engaged counsel for the petitioners, steps could not be taken to summon the Circle Officer; for which, the learned Trial Court, vide impugned order, dated 05.02.2026, had closed the evidence and fixed the case for argument.
- 7.** It is well settled that for fault on the part of the Advocate, the petitioners should not suffer. And taking note of the said proposition and also, considering the facts and circumstances on record and also, the submission of Mr. Mukherjee, learned counsel for the petitioners, this Court is inclined to dispose of this Civil Revision Petition, at this motion stage itself, by interfering with the impugned order, dated 05.02.2026; subject, however, to payment of a cost of Rs. 5,000/-, which shall be deposited before the learned Trial Court, on or before the next date of hearing.
- 8.** Consequently, the learned Trial Court is directed to afford one opportunity to the petitioners to summon and examine the Circle Officer.
- 9.** In terms of the above, this Civil Revision Petition stands disposed of.

JUDGE

Comparing Assistant