

GAHC010121572024



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

Case No. : CRP(IO)/205/2024

UMA BANIK
WIFE OF LATE SHYMAL BANIK,
PERMANENT RESIDENT OF DESHABANDHU ROAD, SILCHAR,
P.O. AND P.S. SILCHAR, PIN- 788001,
DISTRICT- CACHAR, ASSAM.
PRESENTLY RESIDING AT USHANJALI, 327,
CANAL STREET, SREEBHUMI (NEAR SPORTING CLUB), KOLKATA, PIN-
700048,
PASCHIM BANGA.

VERSUS

CHANDRA SEKHAR BANIK
SON OF LATE ASHUTOSH BANIK,
A RESIDENT OF DESHABANDHU ROAD,
SILCHAR, P.O. AND P.S.- SILCHAR,
PIN- 788001, DISTRICT- CACHAR, ASSAM.

Advocate for the Petitioner : MR. S D PURKAYASTHA
Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

21.06.2024

Heard Shri SD Purkayastha, learned counsel for the petitioner, who has

filed this application under Section 227 of the Constitution of India challenging an order dated 06.05.2024 passed by the learned Additional District Judge, Cachar in Testamentary Suit No. 1/2009 whereby the petition filed by the petitioner, who is the defendant no. 1(a) for adjournment has been rejected and thereby the evidence of PW-2 has been closed.

2. The learned counsel for the petitioner has submitted that there are good grounds as to why the adjournment was sought for as the learned counsel representing the petitioner was unwell.

3. Let notice be issued, returnable on 19.07.2024.

4. Let steps for service of notice upon the sole respondent be taken by registered post with A/D. Steps within three working days.

5. Additionally, service by *dasti* is also permitted and such service is to be routed through the Registry of this Court. In the notice accompanying the *dasti*, the next date i.e. 19.07.2024 has to be clearly reflected and prior to the next date, the petitioner is required to file an affidavit in proof of such *dasti* service.

6. Shri Purkayastha, learned counsel for the petitioner prays for an interim order.

7. The suit is of the year 2009 and the same is pending for cross-examination of the other PWs. The learned counsel has however informed this Court that as per instructions received, evidence of PW-4 has been closed. However, the aforesaid action is yet to be challenged.

8. In view of the above, this Court is not inclined to pass a blanket order of stay of the proceedings. However, all further proceedings would be subject to the outcome of this petition with regard to the evidence of the PW-2.

9. List this case on 19.07.2024.

JUDGE

Comparing Assistant