

GAHC010135492024



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

Case No. : CRP/124/2024

SANDESH KHAN

S/O- LATE NUR MOHAMMED, R/O- VILL.- KAKADHOWA, MOUZA-
GOMAFULBARI, P.S. TARABARI, DIST. BARPETA, ASSAM

VERSUS

NUR ISLAM KHAN AND 4 ORS

S/O- LATE RAHIZ KHAN, R/O- VILL.- BORAGDIA, MOUZA- NAGAON, P.S.
AND DIST. BARPETA, ASSAM

2:IMAN KHAN

S/O- LATE RAHIZ KHAN
R/O- VILL.- BORAGDIA
MOUZA- NAGAON
P.S. AND DIST. BARPETA
ASSAM

3:SALAMAT KHAN

S/O- LATE RAHIZ KHAN
R/O- VILL.- BORAGDIA
MOUZA- NAGAON
P.S. AND DIST. BARPETA
ASSAM

4:AKKABAR KHAN

S/O- LATE RAHIZ KHAN
R/O- VILL.- BORAGDIA
MOUZA- NAGAON
P.S. AND DIST. BARPETA
ASSAM

5:FAIZUDDIN

S/O- LATE JALAL BEPARI

R/O- VILL.- SONERTARI
MOUZA- CHENGA
P.S. TARABARI
P.O. PASCHIM MAZDIA
DIST. BARPETA
ASSAM
PIN- 781305

Advocate for the petitioner(s): Mr. B Hussain

Advocate for the respondent(s):

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

26.05.2025

Heard Mr. B Hussain, the learned counsel appearing on behalf of the petitioner.

2. It is seen that though the service upon the respondent Nos.1 to 5 is complete, but none has appeared on behalf of the respondents.

3. The present proceedings pertain to an order being passed by the Court of the learned Civil Judge (Junior Division) No.2 Barpeta dated 12.04.2024 whereby the Title Suit No.38/2023 has been stayed pending disposal of Title Suit No.222/2022. This Court further has taken note of that Title Suit No.222/2022 is filed by the respondent Nos.1 and 2 in the instant proceedings.

4. Although the said respondents have not appeared, however, as a matter of

abundant caution, this Court would insist upon the petitioner herein to effect service upon the respondent Nos.1 and 2 by way of Dasti to be routed through the Registry of this Court and to file an affidavit of service on or before the next date fixed.

5. The next date is fixed on 18.06.2025.

6. Mr. B Hussain, the learned counsel further submitted that though the subject matter of the suits of both the parties are in respect to the same dag and patta numbers, but taking into account the case set out by the respondents in Title Suit No.222/2022 and the case set out by the petitioner in Title Suit No.38/2023, the ends of justice would be met if both the proceedings are analogously tried. He, therefore, submitted that he would file an application under Section 151 of the Code by 13.06.2025.

7. Taking into account the above, list the matter again on 18.06.2025.

8. This Court further takes note of that vide an order dated 27.11.2025, it was observed that the interim prayer of the petitioner would be considered upon appearance of the other side. It is seen that the service, otherwise, is complete as regards the respondent Nos.1 to 5, however, none had appeared.

9. Considering the above, it is the opinion of this Court that if the Title Suit No.222/2022 is allowed to proceed further, that too, when the petitioner wishes to file an application under Section 151, it may result in difficulty in permitting analogous trial of both the suits at a later stage by this Court.

10. Accordingly, the further proceedings of Title Suit No.222/2022 pending before the Court of the learned Civil Judge (Junior Division) No.2, Barpeta shall remain stayed till the next date fixed.

JUDGE

Comparing Assistant