

GAHC010171252022



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

Case No. : CRP(IO)/205/2022

MAHAMMAD ALI AND ANR
S/O- LATE ABBAS BEPARI,
RESIDENT OF VILLAGE- BERALDI,
MOUZA- BARPETA, ASSAM, PIN- 781315.

2: KHOWAZ ALI BEPARI
S/O- LATE ABBAS BEPARI
RESIDENT OF VILLAGE- BERALDI
MOUZA- BARPETA
ASSAM
PIN- 781315

VERSUS

MD. SALIM UDDIN AND 2 ORS
S/O- LATE MONAI BEPARI,
RESIDENT OF VILLAGE- BARALDI,
MOUZA- BARPETA, ASSAM, PIN- 781315.

2:MD. PACHHU MIA
S/O- LATE MONAI BEPARI
RESIDENT OF VILLAGE- BARALDI
MOUZA- BARPETA
ASSAM
PIN- 781315.

3:ON THE DEATH OF SADHU MIA
HIS LEGAL HEIRS-

3.1:FALANI BEGUM
W/O- LATE SADHU MIA
RESIDENT OF VILLAGE- BARALDI
MOUZA- BARPETA
ASSAM

PIN- 781315.

3.2:NOSER ALI
S/O- LATE SADHU MIA
RESIDENT OF VILLAGE- BARALDI
MOUZA- BARPETA
ASSAM
PIN- 781315.

3.3:BOSER ALI
S/O- LATE SADHU MIA
RESIDENT OF VILLAGE- BARALDI
MOUZA- BARPETA
ASSAM
PIN- 781315

Advocate for the Petitioner : MR. D MAZUMDAR

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 02.09.2022

Heard Mr. D Mazumder, learned senior counsel assisted by Mr. S Ali, learned counsel for the petitioner.

This is an application under Article 227 of the Constitution challenging the order dated 27.06.2022 in Title Appeal No.19/2019, whereby the application under Order XLI Rule 27 filed by the appellant/petitioner herein was rejected.

The learned senior counsel drawing the attention of this Court to the judgment of the Supreme Court in the case of ***Union of India Vs. Ibrahim Uddin*** reported in ***(2012) 8 SCC 148*** submitted that the Court below ought not to have taken up for consideration the application under Order XLI Rule 27 CPC at this stage. Rather it

ought to have taken it at the time of hearing of the instant appeal.

Issue notice, returnable by 28.10.2022.

Taking into consideration the above submission of the learned counsel, further proceedings of the Title Appeal No.19/2019 are suspended till the next date.

Steps by way of Registered Post with A/D as well as through usual process within 3 (three) days.

The petitioner is further directed to take steps by way of *dasti* service and file affidavit of service routed through the registry of this Court and file affidavit of service on or before the next date.

JUDGE

Comparing Assistant