

GAHC010205672023



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

**Case No. : CRP(IO)/300/2023**

SAJDA TABASUM AND ANR  
W/O IRSHAD ALI, R/O NEW COURT ROAD, AZAD COLONY, P.O.-HIJUGURI,  
P.S.-TINSUKIA, DIST-TINSUKIA, ASSAM

2: MD. IRSHAD KHAN  
S/O LATE KAMRUZAMA KHAN  
R/O NEW COURT ROAD  
AZAD COLONY  
P.O.-HIJUGURI  
P.S.-TINSUKIA  
DIST-TINSUKIA  
ASSA

VERSUS

IMRAN KHAN  
S/O LATE ABDUL SUKUR KHAN, R/O AZAD COLONY, P.O.-HIJUGURI, P.S.-  
TINSUKIA, DIST-TINSUKIA, ASSAM

**Advocate for the Petitioner** : MR S PARASHAR,

**Advocate for the Respondent** : MR B K MISHRA, MR. S ISLAM, A R MONDAL, MR A HAWARI

**BEFORE**  
**HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

**ORDER**

**Date : 28.01.2026.**

Heard Mr. S. Parashar, learned counsel for the petitioners /defendants. Also heard Mr. S. Islam, learned counsel for the respondent/plaintiff.

The respondent was originally the plaintiff who filed the Title Suit No.121/2021, against the present petitioners who are defendants in the Title Suit.

It is submitted by the learned counsel for the petitioners that vide order dated 21.06.2023, the defendants were allowed to cross-examine the plaintiff's witness despite the fact that the plaintiff had prayed for time to adduce additional evidence. It is further submitted that the plaintiff had not submitted the evidence-in-chief of all the witnesses. Before submission of evidence-in-chief of all the witnesses, if the defence is allowed to cross-examine the plaintiff's witness, the respondent/plaintiff will be able to fill in the lacunae to the prejudice of the present petitioners/defendants.

It is submitted by Mr. S. Parashar, learned counsel for the petitioners that as per Section 138 of the Indian Evidence Act, 1872, the first party is to adduce the evidence first and thereafter, cross-examination is to commence, whereas in the instant case, the learned Trial Court has allowed the defence to cross-examine the plaintiff's witness. This will disclose the defence of the defendants and will afford an opportunity to the respondent/plaintiff to fill up the lacunae.

On the contrary, Mr. S. Islam, learned counsel for the respondent/plaintiff has submitted that the impugned order has been rightly passed. There is indeed no bar to cross-examine the plaintiff's witness before submission of evidence-in-chief of all the listed witnesses of the plaintiff.

I have considered the submission at the bar with circumspection.

I find force in the argument of learned counsel for the petitioners.

Accordingly, this petition is admitted and be listed for final hearing on 26.02.2026.

JUDGE

**Comparing Assistant**