

GAHC010263422018



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

Case No. : I.A.(Civil) 4053/2018

1:MD. HASMAT ALI @ HASU
S/O- LATE SURHAB ALI
R/O- VILL.- OUANA, MOUZA- KHATOWAL, P.O. AND P.S.- RUPAHI, DIST.-
NAGAON, ASSAM, PIN- 782125

VERSUS

1:ON THE DEATH OF THULESWAR DAS, HIS LEGAL HEIRS SMTI. MONU
DAS, AND 4 ORS.
W/O- LATE THULESWAR DAS
R/O- VILL.- KOLONGPAR HALOWAGAON, P.O.- KOLONGPAR
HALOWAGON, P.S.- RUPAHI, DIST.- NAGAON, ASSAM, PIN- 782125

2:SRI BUBUL DAS
S/O- LATE THULESWAR DAS
R/O- VILL.- KOLONGPAR HALOWAGAON
P.O.- KOLONGPAR HALOWAGON
P.S.- RUPAHI
DIST.- NAGAON
ASSAM
PIN- 782125

3:DIPJYOTI DAS @ LAKHI DAS
S/O- LATE THULESWAR DAS
R/O- VILL.- KOLONGPAR HALOWAGAON
P.O.- KOLONGPAR HALOWAGON
P.S.- RUPAHI
DIST.- NAGAON
ASSAM
PIN- 782125

4:SMTI. TINA TAMULI
D/O LATE THULESWAR DAS
R/O VILL. BARPATHARI PANIGAON

P.O. UPPER UJARA
P.S. SADAR (NAGAON) DIST. NAGAON
ASSAM
PIN 782001

5:SMTI. MINA BORA
D/O LATE THULESWAR DAS
R/O VILL. TULSHIMUKH (KUCHGAON)
P.O. TULSHIMUKH
P.S. SADAR
DIST. NAGAON
ASSAM
PIN 78200

Advocate for the Petitioner : MR. B C DAS

Advocate for the Respondent : MS. R CHOUDHURY

**BEFORE
HONOURABLE MR. JUSTICE PRASANTA KUMAR DEKA**

ORDER

Date : 07-12-2018

Heard Mr.B. C. Das, learned Senior counsel assisted by Mr. J. C. Bora learned counsel for the petitioner. Also heard Ms. R. Choudhury, learned counsel entered appearance as the Caveator for all the respondent in RSA 279/2018.

It is submitted by Ms. Choudhury that after appearance in the second appeal the brief was taken away from her and as a result she is handicapped in appearing proceeding. As such, she sought for striking out her name as counsel for the respondent. Accordingly, Registry to do the needful. On the other hand, it is the submission of Mr. Das, learned Senior counsel for the petitioner that vide order dated 2.11.2018 assurance was given by the conducting counsel on the opp. Parties that till the next date fixed i.e. 28.11.2018 the learned counsel made an undertaking that the decree would not be put to execution . But on 3.11.2018 an application was filed by the judgment debtor/present petitioner before the executing court in Title Execution No. 15/2002 in the Munsiff No. 1, Nogaon. The said application was rejected and as per submission of Mr. Das the decree was executed before

28.11.2018.

Being aggrieved this application is filed by the petitioner under Order 39 Rule 2(A) CPC. The fact of execution and satisfaction of the decree is not supported by any order passed by the executing court. As such Mr. Das, learned senior counsel sought for two weeks time to bring it on record the document in that aspect of the matter.

Accordingly, this matter be listed again for orders on 7.1.2019.

JUDGE

Comparing Assistant