

GAHC010055192023



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

Case No. : I.A.(Civil)/884/2023

ON THE DEATH OF FAJAR ALI

HIS LEGAL HEIRS SORHAB ALI AND ORS.

2: SARA KHATUN

W/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

3: SOBITAN NESSA
S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

4: HAFIZUR UDDIN
S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

5: ASIYAT JAMAL

S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

6: SHAHIDUL ISLAM

S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

7: HASHEM ALI

S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

8: MUFAJJEL HOSSAEN

S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

9: HAIDAR ALI

S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

10: SAFIKUL ISLAM

S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

11: ISMAIL HUSSAIN

S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

12: ROFIKUL ISLAM

S/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

13: TARA BHANU

D/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

14: FORIDA KHATUN

D/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA

ASSAM
PIN 781319

15: NUR NEHAR KHATUN

D/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

16: MOMOTAZ BEGUM
D/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319

17: REHENNA KHATUN

D/O LATE FAJAR ALI
PERMANENT RESIDENT OF VILLAGE RAMPUR
P.O. NIZ RAMPUR
P.S. KALGACHIA
DIST. BARPETA
ASSAM
PIN 781319
VERSUS

ON THE DEATH OF SORHAB ALI
HIS LEGAL HEIRS BOSIRAN NESSA and ANR

2:RUSTAM ALI

S/O MD. SORHAB ALI
BOTH ARE R/O VILL. SUNDARPUR
P.S. MATIA
DIST. GOALPARA
ASSAM.

Advocate for : G UDDIN
Advocate for : MR. S Ali appearing for ON THE DEATH OF SORHAB ALI

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

Date : 30.08.2024

Heard Mr. A. K. Azad, learned counsel for the applicant. Also heard Mr. H. Das, learned counsel for the respondents.

This is an application under Order 22 Rule 3 of CPC, 1908 for substitution of the legal heirs of applicant/appellant in RSA No. 167/2010.

Paragraph 5 and 4 of the aforesaid application is reproduced hereunder for ready reference:-

“5. That, after getting knowledge of the legal heirs of the deceased Appellant, it came to learnt that the Appellant left behind his following legal heirs -

1. *Sabitan Nessa*

2. *Sara Khatun*

3. *Sorhab Ali*

4. *Hafizur Uddin*

5. *Asiyat Jamal*

6. *Shahidul Islam*

7. *Hashem Ali*

8. *Muffajzel Hossaen*

9. *Haidar Ali*

10. *Safikul Islam*

11. *Ismail Hussain*

12. *Rofikul Islam*

13. *Tara bhanu*

14. *Forida Khatun*

15. *Nur Nehar Khatun*

16. *Momotaz Begum*

17. *Rehena Khatun*

Sl. No. 1 and 2 are the wives of Late Fajar Ali, Sl.No. 3 to 12 are the Sons of Late Fajar Ali and Sl. No. 13 to 17 are the daughters of Late Fajar Ali.

4. That the appropriate legal rights of the Applicants/Appellants is to be decided in R.S.A. No. 167/2010, and as such unless substitution petition was not allowed, they will be prejudiced. The relevant documents of applicants i.e. Voter Id Cards are annexed with the delay condonation petition.”

Since, the delay in filing the substitution application, has been

condoned by this Court by order dated 30.08.2024 in I.A.(Civil) No. 883/2023, the instant application accordingly stands allowed.

Resultantly, the applicants be substituted in place of deceased appellant in RSA No. 167/2010.

Let a copy of the amended cause title be submitted before the Registry for doing the needful.

Disposed of.

JUDGE

Comparing Assistant