

GAHC010193372013



2026:GAU-AS:3766

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

**Case No. : RSA/198/2013**

RANGILA HAZARIKA  
W/O LATE BIBHUTI BHUSAN DAS, R/O VILL. POTANI, SONARIGAON, P.O.  
BIHARIGAON, DIST. NAGAON, ASSAM, PIN 782101

VERSUS

LANI DAS  
C/O S.N. DEKA, R/O M.C. ROAD, BAROWARI RAILWAY COLONY, UZAN  
BAZAR, P.O. UZAN BAZAR, P.S. LATASIL, DIST. KAMRUP MASSAM, PIN  
781003

**Advocate for the Petitioner : MR.A K GUPTA, MR.P J SAIKIA**

**Advocate for the Respondent : MS. D SHARMA , MR H K SARMA,MR.S K GHOSH**

**:: BEFORE ::**

**(HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA)**

Advocate(s) for the Appellant : Mr. A.K. Gupta,  
Advocate.

Advocate(s) for the Respondent : Mr. H.K. Sarma,  
Advocate.

Date on which judgment is reserved : 12.02.2026.

Date of pronouncement of judgment : 16.03.2026.

Whether the pronouncement is of the operative part of the judgment? : YES.

Whether the full judgment has been pronounced? : YES.

### **JUDGMENT AND ORDER (CAV)**

Heard Mr. A.K. Gupta, learned counsel appearing for the appellant as well as Mr. H.K. Sarma, learned counsel representing the respondent.

2. This is a Regular Second Appeal under Section 100 of the Civil Procedure Code (CPC) whereby the judgment dated 22.05.2013 passed by the court of learned Civil Judge No.2, Kamrup in Title Appeal No.92/2012 affirming the judgment and decree dated 27.06.2012 passed by the learned Munsiff No.4, Kamrup in T.S. No.103/2008, is under challenge.

3. On 30<sup>th</sup> January, 1986, the respondent married late Bibhuti Bhusan Das according to Hindu rituals. Bibhuti Bhusan Das was an employee of the Postal Department. Because of the service conditions, he had to work at different places. On 08.10.2006, Bibhuti Bhusan Das died.

4. The respondent then filed applications before the Postal Department for getting the service benefits of her deceased husband. At that time, she came to know that the present appellant claiming to be the wife of her deceased husband, filed an application being O.A. No.22/2007 before the Central Administrative Tribunal, Guwahati Bench.

5. On the basis of the aforesaid facts, the respondent filed the suit before the court below praying for a declaration that she is the legally married wife of late Bibhuti Bhusan Das.

6. The trial court decreed the suit of the respondent and the appellate court also affirmed the judgment of the trial court.

7. The second appeal was admitted for hearing the parties upon the following substantial questions of law:

1. Whether the learned Munsiff, after constitution of the Family Court under Section 8 of the Family Courts Act 1984, has jurisdiction to decide the suit, in view of the explanation (b) of sub-section (1) of Section 7 of the Act?

8. I have given my anxious considerations to the submissions made by the learned counsel of both sides.

9. At this stage, a brief visit to Section 7 of the Family Courts Act 1984 would be fruitful. It reads as under:

**“7. Jurisdiction.-**

(1) Subject to the other provisions of this Act, a Family Court shall-

(a) have and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation;

and (b) be deemed, for the purposes of exercising such jurisdiction under such law, to be a district court or, as the case may be, such subordinate civil court for the area to which the jurisdiction of the Family Court extends.

Explanation.-The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely:-

(a) a suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or, as the case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage;

(b) a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person;

(c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them;

(d) a suit or proceeding for an order or injunction in circumstances arising out of a marital relationship;

(e) a suit or proceeding for a declaration as to the legitimacy of any person; (f) a suit or proceeding for maintenance;

(g) a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise-

(a) the jurisdiction exercisable by a Magistrate of the First Class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and

(b) such other jurisdiction as may be conferred on it by any other enactment.”

**10.** Explanation (b) of Section 7(1) of the Act of 1984 talks about matrimonial status of any person. Where there is Family Court, it shall exercise all jurisdictions exercisable by any District Court or any Sub-ordinate Civil Court under any law for the time being in force in respect of suits or proceedings of the nature referred to in explanations of Section 7(1) of the Family Courts Act.

**11.** Here, in this case, the respondent filed the suit claiming for a declaration that she is the only

legally married wife of late Bibhuti Bhusan Das, not the appellant. The respondent has filed the suit praying for a declaration of her matrimonial status. In places where there is no Family Court, the ordinary civil court shall have the jurisdiction to entertain to such a plea. But, where there is a Family Court, the Family Court shall have the jurisdiction to entertain the plea of the respondent. This is what Section 7 of the Family Courts Act has laid down.

**12.** Under the aforesaid reasons, the second appeal is allowed. The respondent is at liberty to approach the Family Court at Guwahati to seek relief.

**13.** The judgment dated 22.05.2013 passed by the court of learned Civil Judge No.2, Kamrup in Title Appeal No.92/2012 affirming the judgment and decree dated 27.06.2012 passed by the learned Munsiff No.4, Kamrup in T.S. No.103/2008, are set aside.

Send back the Trial Court Record.

**JUDGE**

**Comparing Assistant**