Assam Schedule VII, Form No.- 143 .

Serial No	Date Of Order or proceeding	Order or other Proceeding Misc. (W) Case No. 01/2018	Signature of Court	Office action taken on order with date and dated signature of pleaders or parties when necessary
1	2	3	4	5
	20-06-2018	The Misc. petitioner , the plaintiff side and the defendants no. 5 to 17 are represented by their ld. Counsels. The defendants no. 5 to 17 have filed their written objections earlier. I have heard the respective ld. Counsels who are present today. Perused the case record which shows that the Hurauli Masjid Committee, represented by its President Altaf Hussain Barlaskar had filed a petition No. 77/18 on 18-05-2018 under Order-1 Rule-8A & Rule - 10(2) of the C.P.C. read with Section -151 of the C.P.C. with a prayer for allowing it to be impleaded as a party in Title Suit (Wakf) No. 07/2016 and thereafter this Misc Case was registered on the basis of the said petition. In the course of hearing the petition No. 77/18 , the ld. Counsel for the plaintiff did not raise any objection and specifically submitted that he has no objections and also submitted that the defendants have no locus-standi in this regard but the ld. Counsel for the defendant Nos. 5 to 17 submitted inter-alia that the Hurauli Mosque Committee is a fictitious body having no existence whatsoever and the petitioner has hopelessly failed to place on record any document to substantiate his claim and filed a vexatious petition in collusion with the plaintiff and as such the prayer of the petitioner is liable to be rejected. Contd….2		

(2)

On perusal of the materials available in this record and also the case record of T.S.(W) No. 07/2016 it is found that the plaintiffs instituted the above mentioned suit for declaration of possessory rights of the plaintiffs over the suit land along with other consequential reliefs and it had been stated in the plaint that there is a Mosque (Masjid), standing over the suit land and the petitioner also stated in the above mentioned petition that a Mosque is situated over the suit land and the petitioner claimed himself as the President of the Masjid Committee which was formed after the death of its Mutawalli Late Gazi Abdul Awal Laskar and apparently the said Mosque is having some interest in the suit land and considering all the facts and circumstances, it appears that the petition No. 77/2018 filed by the petitioner is bona fide and therefore it is necessary to allow the petitioner to present his opinion and take part in the proceedings of T.S. (W) Case No. 07/2016. It may be mentioned in this context that "Proper parties" are parties whose presence before the court is a matter of convenience to enable the court to adjudicate more effectively and completely and necessary parties are those whose presence are essential and in whose absence no effective decree can be passed at all and though no suit shall be defeated for misjoinder or non-joinder of parties there can be no doubt that if the necessary and proper parties are left out or not joined the infirmity of the suit is bound to be fatal and considering all the facts and circumstances, I am of the opinion that it would be wise to allow the petition No. 77/18 at this stage and accordingly the same stands allowed in the

Contd…..3

(3)

interest of justice. The plaint of T.S. (W) Case No. 07/2016 shall be amended accordingly by inserting the name of the petitioner, Hurauli Masjid Committee, represented by its President, Altaf Hussain Barlaskar as a defendant and the plaintiff shall furnish a copy of the plaint to the newly added defendant within five(5) days from today to enable the newly added defendant to file the written statement, if any, within the next date fixed. A copy of this order shall be kept in the case record of T.S.(W) Case No. 07/2016.

This Misc. (W) case is thus disposed of on contest without any costs.