

GAHC010014072019



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

Case No. : RSA 26/2019

1:SRI SUBRATA ROY @ KHUKON ROY AND ANR
S/O LATE SUNIL RANJAN ROY,
RESIDENT OF STATION ROAD, KARIMGANJ TOWN, DIST KARIMGANJ,
ASSAM

2: SRI SATYABRATA DAS @ BACCHU
S/O LATE SUNIL RANJAN ROY
RESIDENT OF STATION ROAD
KARIMGANJ TOWN
DIST KARIMGANJ
ASSA

VERSUS

1:STATE OF ASSAM AND 24 ORS
REPRESENTED BYTHE DEPUTY COMMISSIONER, KARIMGANJ, PO, PS
AND DIST KARIMGANJ, ASSAM

2:THE DEPUTY COMMISSIONER
KARIMGANJ
PO AND DIST KARIMGANJ

3:THE SUB DEPUTY COLLECTOR
KARIMGANJ
PO PS AND DIST KARIMGANJ

4:ON THE DEATH OF BROJO GOPAL DAS
HIS LEGAL HEIRS.

4.1:SWAPNA DAS
W/O LATE BROJO GOPAL DAS
RESIDENT OF BONOMALI ROAD
KARIMGANJ TOWN
WARD NO. 14

PO PS AND DIST KARIMGANJ

4.2:RAJA GONESH DAS
S/O LATE BROJO GOPAL DAS
RESIDENT OF BONOMALI ROAD
KARIMGANJ TOWN
WARD NO. 14
PO PS AND DIST KARIMGANJ

4.3:BISWA DAS
S/O LATE BROJO GOPAL DAS
RESIDENT OF BONOMALI ROAD
KARIMGANJ TOWN
WARD NO. 14
PO PS AND DIST KARIMGANJ

5:BASU GOPAL DAS
S/O LATE HARE KRISHNA DAS
RESIDENT OF BONOMALI ROAD
KARIMGANJ TOWN
WARD NO. 14
PO PS AND DIST KARIMGANJ

6:GOUR GOPAL DAS
S/O LATE HARE KRISHNA DAS
RESIDENT OF BONOMALI ROAD
KARIMGANJ TOWN
WARD NO. 14
PO PS AND DIST KARIMGANJ

7:NARAYAN CHANDRA DAS
S/O LATE HARE KRISHNA DAS
RESIDENT OF BONOMALI ROAD
KARIMGANJ TOWN
WARD NO. 14
PO PS AND DIST KARIMGANJ

8:DHRUBA GOPAL DAS
S/O LATE HARE KRISHNA DAS
RESIDENT OF BONOMALI ROAD
KARIMGANJ TOWN
WARD NO. 14

PO PS AND DIST KARIMGANJ

9:SANJIB DAS
S/O LATE HARE KRISHNA DAS
RESIDENT OF BONOMALI ROAD
KARIMGANJ TOWN
WARD NO. 14
PO PS AND DIST KARIMGANJ

10:RADHA RANI DAS
D/O LATE HARE KRISHNA DAS OF BIPINPAL ROAD
KARIMGANJ TOWN
PO
PS AND DIST KARIMGANJ. ASSAM

11:BIVA DAS BARMAN
D/O LATE HARE KRISHNA DAS
W/O SRI DHIRENDRA DAS BARMAN OF NIVA PALLY
KUMARGHAT
PO KUMARGHAT
DIST KUMARGHAT
TRIPURA

12:TULSI RANI DAS
D/O LATE HARE KRISHNA DAS

W/O SUNIL CHANDRA DAS

HOSPITAL ROAD
NAWGAON
PO AND DIST NAWGAON
ASSAM

13:TAPATI DAS PODDAR
D/O LATE HARE KRISHNA DAS

W/O SWAPAN DAS PODDAR OF 12 RAMKRISHNA UPANIBESH
JADAHPUR
KOLKATTA WEST BENGAL.

14:JHUMA RANI PATIL
D/O LATE HARE KRISHNA DAS

W/O SRI BIPUL PATIL OF MANAGHAT(NEAR MARKET)
PO MANAGHAT

TRIPURA.

15:SNEHA DAS
W/O LATE SHYAMAL DAS

OF SUBASH NAGAR
KARIMGANJ TOWN
PO
PS AND DIST KARIMGANJ
ASSAM

16:RATAN DAS
S/O LATE SHYAMAL DAS

OF SUBASH NAGAR
KARIMGANJ TOWN
PO
PS AND DIST KARIMGANJ
ASSAM

17:DIPALI DAS
D/O LATE SHYAMAL DAS

OF SUBASH NAGAR
KARIMGANJ TOWN
PO
PS AND DIST KARIMGANJ
ASSAM

18:SHAMBHUNATH BANIK
S/O LATE ASHUTOSH BANIK

OF OLD STATION ROAD
KARIMGANJ
PO
PS AND DIST KARIMGANJ
ASSAM

19:SHANKAR PRASAD BANIK
S/O LATE ASHUTOSH BANIK

OF DESOBONDHU ROAD
HOSPITAL ROAD
SILCHAR
5 PO
PS SILCHAR
DIST CACHAR ASSAM

20:CHANDRA SEKHAR BANIK
S/O LATE ASHUTOSH BANIK

OF DESOBONDHU ROAD
HOSPITAL ROAD
SILCHAR
5 PO
PS SILCHAR
DIST CACHAR ASSAM

21:SWAPNA DUTTA
D/O LATE ASHUTOSH BANIK
W/O PRABIR DUTTA
STATION ROAD
ARUNACHAL DIST 24 PORGONA
WEST BENGAL

22:UMA RANI BANIK
W/O LATE SHYAMAL BANIK
C/O MODERN POLYTHENE FACTORY
PO SILCHAR-1.PS SILCHAR
DIST CACHAR
ASSAM

23:RUMELA BANIK
D/O LATE SHYAMAL BANIK
C/O MODERN POLYTHENE FACTORY
PO SILCHAR-1.PS SILCHAR
DIST CACHAR
ASSAM

24:PAMELA BANIK
D/O LATE SHYAMAL BANIK
C/O MODERN POLYTHENE FACTORY
PO SILCHAR-1.PS SILCHAR
DIST CACHAR
ASSAM

25:RUNITA BANIK
W/O LATE SHYAMAL BANIK
C/O MODERN POLYTHENE FACTORY
PO SILCHAR-1.PS SILCHAR
DIST CACHAR
ASSA

Advocate for the Petitioner : MR. P K ROY
Advocate for the Respondent : GA, ASSAM

:: BEFORE ::

HON'BLE MR. JUSTICE PRASANTA KUMAR DEKA

-O R D E R-

05.02.2019

Heard Mr. PK Roy, learned counsel for the appellants and Mr. G Bordoloi, learned counsel for the respondent nos. 1, 2 & 3.

This second appeal under Section 100 of the CPC is against the judgment and decree dated 29.09.2018 passed by the court of learned Civil Judge, Karimganj in Title Appeal No. 22/2017 and the same is admitted on the following substantial questions of law:-

- 1. Whether the finding of the learned first appellate court that the decree passed in Title Suit No. 140/1987 having not been confirmed in appeal, consideration of the said decree by the learned trial court in illegal, suffers from perversity to the extent that the decree passed by a court of law remains valid and attains finality till the decree is reversed or quashed/ set aside in appeal?*
- 2. Whether in absence of any suit or counter-claim being filed by the defendant no. 5 or his successors-in-interest claiming right of ownership or right as landlord of the appellant/plaintiff in respect of the suit rooms, the suit of the plaintiff could have been dismissed by the learned first appellate court?*

The appellants shall be at liberty to raise any other substantial question of law at the time of hearing.

Call for records.

Mr. Bordoloi accepts notice on behalf of the respondent nos. 1, 2 & 3. However, necessary copies of the Memo of Appeal along with the enclosures be served on him.

The appellants shall take steps on the rest of the respondents leaving aside the respondent nos. 11, 14 & 21 within a period of 3 days from today both by way of registered post with A/D as well as by usual process.

Notices shall be returnable on 25.03.2019.

JUDGE

Comparing Assistant