

GAHC010016742017



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

Case No. : RSA/91/2017

SMTI BINA DUTTA
W/O SRI DIPAK DUTTA, R/O GANESH PARA, A.K. DEV ROAD, NEAR BATHO
MANDIR, GUWAHATI 781025

VERSUS

SMTI MALATI BALA GOGOI and 2 ORS
W/O LATE PADMA KUMAR GOGOI

2:ON THE DEATH OF SRI BAKUL KUMAR GOGOI AND HIS LEGAL HEIRS -
NAMELY-

2.1:SMTI. JITUMONI GOGOI
WIFE OF LATE BAKUL KUMAR GOGOI
RESIDENT OF HOUSE NO.7
MACHKHOWA
A.T.ROAD
NEAR USHA BUILDING
GUWAHATI-781009
DIST. KAMRUP (M)
ASSAM.

2.2:MS.SIVANI GOGOI
D/O. LATE BAKUL KUMAR GOGOI

RESIDENT OF HOUSE NO.7
MACHKHOWA
A.T.ROAD
NEAR USHA BUILDING
GUWAHATI-781009
DIST. KAMRUP (M)
ASSAM.

2.3:SRI BIJIT GOGOI
S/O. LATE BAKUL KUMAR GOGOI

RESIDENT OF HOUSE NO.7
MACHKHOWA
A.T.ROAD
NEAR USHA BUILDING
GUWAHATI-781009
DIST. KAMRUP (M)
ASSAM.

3:PRADIP KUMAR GOGOGI
NO. 2 and 3 ARE THE SONS OF LATE PADMA KR. GOGOI ALL ARE R/O
MACHKHOWA
A.T. ROAD
P.O. and P.S. BHARALUMUKH
DIST. KAMRUP M
ASSAM

Advocate for the Petitioner : MR.A SATTAR, MR.H K BARUAH,MR.Z MUKIT

Advocate for the Respondent : MR.A BURAGOHAINR- 1-3, MR. A N I HUSSAIN(R- 1-3),MR. R DUBEY,MS. A B KAYASTHA(R- 1-3),MR.R J BORDOLOI(R- 1-3),MR.R ALI(R- 1-3)

Linked Case : RSA/90/2017

SRI DIPAK DUTTA
S/O LATE LAKHIRAM DUTTA
R/O GANESH PARA
A.K. DEV ROAD
NEAR BATHO MANDIR
GUWAHATI 781025

VERSUS

SMTI MALATI BALA GOGOI and 2 ORS
W/O LATE PADMA KUMAR GOGOI

2:ON THE DEATH OF BAKUL KUMAR GOGOI
HIS LEGAL HEIRS
NAMELY-

2.1:SMTI JITUMONI GOGOI
W/O LATE BAKUL KUMAR GOGOI

R/O HOUSE NO. 7
MACHKHOWA
A.T. ROAD
NEAR USHA BUILDING
GUWAHATI-781009
DISTRICT KAMRUP (M)
ASSAM

2.2:MS SIVANI GOGOI
D/O. LATE BAKUL KUMAR GOGOI
R/O. HOUSE NO.7 MACHKHOWA
AT ROAD
NEAR USHA BUILDING
GUWAHATI. 781009
DIST. KAMRUP
(M).

2.3:SRI BIJIT GOGOI
S/O LATE BAKUL KUMAR GOGOI

R/O HOUSE NO. 7
MACHKHOWA
A.T. ROAD
NEAR USHA BUILDING
GUWAHATI-781009
DISTRICT KAMRUP (M)
ASSAM

3:PRADIP KUMAR GOGOI

NO.2 and 3 ARE THE SONS OF LATE PADMA KR. GOGOI ALL ARE R/O
MACHKHOWA
A.T. ROAD
P.O. and P.S. BHARALUMUKH
DIST. KAMRUP M
ASSAM.

Advocate for : MR.Z MUKIT

Advocate for : MR.R ALIR- 1-3 appearing for SMTI MALATI BALA GOGOI and 2
ORS

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

21.04.2026

Heard Mr. A. Sattar, learned counsel for the appellant and also heard Mr. R. Dubey, learned counsel for the respondents.

Taking this Court through the judgment of the learned First Appellate Court, Mr. Sattar, learned counsel for the appellant has pointed out that as many as 6 issues have been framed by the learned Trial Court while deciding the title suit. But, the learned First Appellate Court, in the impugned judgment and decree dated 08.08.2016, had not formulated any point for determination and also not directed any discussion on the issues. He also submits that the learned Appellate Court has only discussed the Issue No.4 and Issue No.1 and there is no finding in respect of the other issues and as such, the requirement of Order XLI Rule 31 of the CPC has not been complied with and as such, an additional substantial question of law has to be framed on this point.

Mr. Dubey, learned counsel for the respondents submits that he has no objection in the event of framing of additional substantial question of law on this point.

Accordingly, taking note of the submission of learned counsel for both the parties and also considering the facts and circumstances on the record, this Court is of the view that an additional substantial question of law has to be framed in view of non-compliance of the mandatory requirement of the Order XLI Rule 31 of the CPC by the learned First Appellate Court while deciding the appeal. Accordingly, an additional substantial question of law is framed as under:-

Whether the impugned judgment of the learned First Appellate Court suffers from perversity for non-compliance of the mandatory provision of Order XLI Rule 31 of the CPC?

Heard in part.

List these matters for further hearing on 26.05.2026.

Sd/- *Robin Phuikan*
JUDGE

Comparing Assistant