

GAHC010026792024



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

Case No. : RSA/170/2024

DAYAMOY DEB
S/O LATE DHIRENDRA KUMAR DEB,
RESIDENT OF HAILAKANDI TOWN WARD NO. 6, PO, PS AND DIST
HAILAKANDI, ASSAM, 788151

VERSUS

DHARANI KUMAR DEB AND 5 ORS
S/O LATE DHIRENDRA KUMAR DEB,
RESIDENT OF HAILAKANDI TOWN WARD NO. 6, PO, PS AND DIST
HAILAKANDI, ASSAM, 788151

2:SHANKAR SHEEL
S/O LATE HARIPADA SHEEL
RESIDENT OF HAILAKANDI TOWN WARD NO. 6
PO
PS AND DIST HAILAKANDI
ASSAM
788151

3:BIJAY KRISHNA BHATTACHARJEE
S/O LATE DHIRENDRA KUMAR BHATTACHARJEE
RESIDENT OF HAILAKANDI TOWN WARD NO. 8
PO
PS AND DIST HAILAKANDI
ASSAM
788152

4:PRADIP KUMAR CHAKRABORTY
S/O LOKENDRA MOHAN CHAKRABORTY
RESIDENT OF HAILAKANDI TOWN WARD NO. 8
PO
PS AND DIST HAILAKANDI
ASSAM

788152

5:RINA CHAKRABORTY
W/O JYOTIRMOY CHAKRABORTY
RESIDENT OF ULUBARI
GUWAHATI
ASSAM
781007

6:MUNICIPAL CHAIRPERSON
HAILAKANDI BOARD
HAILAKANDI
ASSAM
PO
PS AND DIST HAILAKANDI
ASSAM 78815

Advocate for the Petitioner : MR. R A CHOUDHURY, MR. A U CHOUDHURY,MR. R A MAZUMDER

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

25.09.2024

Heard Mr. A.U. Choudhury, learned counsel for the appellant.

2. This regular second appeal, under Section 100 of the C.P.C., is directed against the Judgment and Order dated 31.10.2023, passed by the learned Additional District Judge, Hailakandi, in Title Appeal No. 01/2022.

3. It is to be noted here that vide impugned Judgment and Order dated 31.10.2023, the learned Additional District Judge, Hailakandi has upheld the Judgment and Decree dated 03.12.2018, passed by the learned Civil Judge, Hailakandi, in Title Suit No. 28/2016.

4. Perused the memo of appeal as well as the grounds mentioned therein

and also perused the impugned Judgment and Order dated 31.10.2023, passed by the learned Additional District Judge, Hailakandi, in Title Appeal No. 01/2022 and also perused the Judgment and Decree dated 03.12.2018, passed by the learned Civil Judge, Hailakandi, in Title Suit No. 28/2016.

5. Having heard the submission of learned counsel for the appellant, this second appeal is admitted on the following substantial question of law :-

“Whether the learned trial court as well as the learned first appellate court has correctly decided the issue of adverse position simply on the basis of Exhibit - 4, an order issued by the Municipal Board of Hailakandi, revoking the trade license No. 524, granted in favour of the respondent, in view of the specific pleadings and evidence on record and without framing any issue in respect of adverse possession?”

6. Let notice be issued to the respondents, within a week from today, returnable in 4 weeks, by registered post with A/D and also by usual process.

7. The Registry shall call for the record from the learned trial court as well as from the learned first appellate court.

8. List the matter after 4 (four) weeks.

JUDGE

Comparing Assistant