

GAHC010031972019



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

Case No. : SAO 1/2019

1:MD. MAHMUDUR RAHMAN AND ANR
S/O LATE SAFIQR RAHMAN, VILL. JATKAPAN, P.O. LALARCHOK, DIST.
KARIMGANJ, ASSAM, PIN 788713

2: MD. MUJIBUR RAHMAN
S/O LATE SAFIQR RAHMAN
VILL. JATKAPAN
P.O. LALARCHOK
DIST. KARIMGANJ
ASSAM
PIN 78871

VERSUS

1:MD. ABDUR AZIZ TAPADAR AND 18 ORS.
S/O MD. ABDUL SUKKUR TAPADAR, VILL. AND P.O. NAIGRAM, P.S. AND
DIST. KARIMGANJ, ASSAM, PIN 788713

3:MD. MUHIBUR RAHMAN
S/O LATE SAFIQR RAHMAN
VILL. JATKAPAN
P.O. LALARCHOK
DIST. KARIMGANJ
ASSAM
PIN 788713

4:SMTI SAFIA KHANOM
W/O LT .PARU MIA
R/O VILL. BASHAI
P.O. MORJATKADHI
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM
PIN 788713

5:SMTI AMINA KHATUN
W/O LT. DADU MIA
R/O VILL. DIGIRPAR
P.O. AND P.S. BADARPUR
DIST. KARIMGANJ
ASSAM
PIN 788806

6:SAHAB UDDIN
S/O LATE ABDUL GAFFAR
R/O VILL. AND P.O. NAIGRAM
P.S. AND DIST. KARIMGANJ
ASSAM
PIN 788713

7:(KA) SMTI. JAHANARA BEGUM
W/O ABDUL KAIYUM
R/O VILL. AND P.O. NAIGRAM
P.S. AND DIST. KARIMGANJ
ASSAM
PIN 788713

7:(KHA) SRI ANWARUL HOQUE
S/O LATE ABDUL KAIYUM
R/O VILL. AND P.O. NAIGRAM
P.S. AND DIST. KARIMGANJ
ASSAM
PIN 788713

7:(CHA) SMTI HALIMA BEGUM
D/O LATE ABDUL KAIYUM
R/O DIGIRPAR
P.O. AND P.S. BADARPUR
DIST. KARIMGANJ
ASSAM
PIN 788806

7:(GHA)SRI AMIN UDDIN
S/O LATE ABDUL KAIYUM
R/O VILL. AND P.O. NAIGRAM
P.S. AND DIST. KARIMGANJ
ASSAM
PIN 788713

7:(GA) SRI ABDUL UDDIN
S/O LATE ABDUL KAIYUM
R/O VILL. AND P.O. NAIGRAM

P.S. AND DIST. KARIMGANJ
ASSAM
PIN 788713

7:(UMO) SMTI AYESHA BEGUM
D/O LATE ABDUL KAIYUM
R/O VILL. SHARALIPUR
P.O. BHANGABAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM
PIN 788806

7:SRI ABDUL KAIYUM
S/O LATE JAWAIDUR TAPADAR
R/O VILL. AND P.O. NAIGRAM
P.S. AND DIST. KARIMGANJ
ASSAM
PIN 788713

7:(CHHA) SMTI SULTANA BEGUM
D/O LATE ABDUL KAIYUM
R/O VILL.KADIGRAM
P.O. BHANGABAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM
PIN 788806

8:SRI ABDUL KUDDUS
S/O LATE SAMS UDDIN
R/O VILL. AND P.O. NAIGRAM
P.S. AND DIST. KARIMGANJ
ASSAM
PIN 788713

9:SRI AJIR UDDIN
S/O LATE SAMS UDDIN
R/O VILL. AND P.O. NAIGRAM
P.S. AND DIST. KARIMGANJ
ASSAM
PIN 788713

10:SRI HUSSAIN AHMED
S/O LATE SAFIQR RAHMAN
R/O VILL. AND P.O. NAIGRAM
P.S. AND DIST. KARIMGANJ
ASSAM

PIN 788713

11:SRI MASHUK AHMED
VILL. AND P.O. NAIGRAM
DIST. KARIMGANJ
PIN 788713

12:SRI REJOY MIA
VILL. AND P.O. BORKATPUR
DIST. KARIMGANJ
PIN 788713

13:SRI ABDUL ALI
VILL. KONKOLOS
P.O. BHANGGA
DIST. KARIMGANJ
PIN 78871

Advocate for the Petitioner : MR. S BANIK

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

03.04.2019

Heard Mr. S. Banik, learned counsel for the appellants.

Admit the appeal.

Issue notice returnable in six weeks.

Appellant to take steps for service of notice upon the respondents. Steps by registered post with A/D as well as by usual process within three days from today.

Call for the LCR.

This appeal shall be heard on the following substantial questions of law :-

- “1) Whether the learned Lower Appellate Court had committed manifest illegality in failing to consider that the claim of the respondents/plaintiffs with regard to the lost opportunity to file written statement against the counter-claim stood barred under the principles of waiver and estoppels?
- 2) Whether the learned Lower Appellate Court was justified in interfering with the impugned order on the ground of contravention of provisions of Order VIII CPC when the suit was dismissed on merit by the learned trial court?”

The appellants would be at liberty to urge any other substantial question of law at the time of hearing with the leave of this Court.

JUDGE

Comparing Assistant