

GAHC010048492019



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

Case No. : RSA 275/2019

1:RENUBALA GHOSH AND 4 ORS
W/O- LATE HARBHAJAN GHOSH, R/O- HILL LINE COLONY, WARD NO. 1,
BADARPUR TOWN, P.S. BADARPUR, DIST.- KARIMGANJ, ASSAM.

2: LILA SAHA
W/O- LATE DULAL CH. SAHA
R/O- BADARPURGHAT
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM.

3: CHANDRA SAHA
D/O- LATE DULAL CH. SAHA
R/O- BADARPURGHAT
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM.

4: DIPANKAR SAHA
S/O- LATE DULAL CH. SAHA
R/O- BADARPURGHAT
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM.

5: DEBASISH SAHA
S/O- LATE DULAL CH. SAHA
R/O- BADARPURGHAT
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM

VERSUS

1:KRISHNALAL GHOSH AND 6 ORS
S/O- LATE HARENDRA KUMAR GHOSH, R/O- VILL.- CHALEBARI
(SREENAGAR), P.O. BADARPUR, DIST.- KARIMGANJ, ASSAM, PIN- 788806.

2:MORON KUMAR GHOSH
S/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 788806.

3:MISSION KUMAR GHOSH
S/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 788806.

4:MANJU KUMAR GHOSH
D/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 788806.

5:ANJU RANI GHOSH
D/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 788806.

6:SANJU RANI GHOSH
D/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 788806.

7:RABINDRA KR. GHOSH @ RABI
S/O- LATE HARBHAJAN GHOSH
R/O- HILL LINE COLONY

WARD NO. 1
BADARPUR TOWN
PIN- 788806
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : MR. T U LASKAR

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 19-12-2019

Heard Ms. R. Choudhury, learned counsel for the appellant as well as Mr. T.U. Laskar, learned counsel for the respondent.

At the outset, the learned counsel for the respondent has submitted that as he could not get the cause-list, he is not prepared for the matter today.

In this regard, this Court is of the opinion that for the purpose of admitting the appeal, the respondent is not required to be heard on merit. Accordingly, the Court has proceeded to hear the learned counsel for the appellant on the statement of the appeal.

This appeal under section 100 CPC is directed against the first appellate judgment and decree dated 21.08.2018 passed by the learned Civil Judge, Karimganj in T.A. 4/2001, thereby dismissing the appeal and affirming the judgment and decree dated 19.12.2000 passed by the learned Civil Judge, Junior Division No.2, Karimganj in T.S. No.136/1996 by which the suit of the respondent plaintiff was decreed.

The appeal is admitted on the following substantial question of law: 1) *Whether without an order by the learned first appellate Court allowing secondary evidence of Ext.2 to be entertained, it was appropriate for the learned first appellate Court to record its satisfaction as regards Ext.2, which was a certified copy merely by accepting the explanation about the non-availability of the original of Ext.2, without dealing with the objection raised regarding admission*

of Ext.2 order objection?

Liberty is granted to the appellant to the respondent to raise any other substantial question of law which may arise at the time of hearing of the appeal.

Call for the records.

Let a formal notice be issued without requiring the appellant to take any steps as all the respondents are duly represented by their learned counsel.

List the matter after 4(four) weeks awaiting receipt of the LCR.

JUDGE

Comparing Assistant