

GAHC010052132023



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

Case No. : RSA/101/2024

PAWAN KUMAR JAJODIA @ PAWAN JAJODIA AND 2 ORS.
S/O LATE MAHABIR PRASAD JAJODIA,
RESIDENT OF GRAHAM BAZAR, A.T ROAD, DIBRUGARH TOWN, PO, PS
AND DIST DIBRUGARH, ASSAM

2: MISS ANITA JAJODIA
D/O LATE MAHABIR PRASAD JAJODIA

RESIDENT OF GRAHAM BAZAR
A.T ROAD
DIBRUGARH TOWN
PO
PS AND DIST DIBRUGARH
ASSAM

3: MISS SANTOSH KUMARI JAJODIA
D/O LATE MAHABIR PRASAD JAJODIA

RESIDENT OF GRAHAM BAZAR
A.T ROAD
DIBRUGARH TOWN
PO
PS AND DIST DIBRUGARH
ASSA

VERSUS

MOHIT TEXTILES AND 2 ORS.
A PARTNERSHIP FIRM SITUATED AT PODDAR BHAWAN, H.S ROAD,
DIBRUGARH TOWN, PO PS AND DIST DIBRUGRAH, ASSAM 786001

2:SRI MADANLAL CHALLANI
S/O LATE BABULAL CHALLANI

PARTNERS OF M.S MOHIT TEXTILES
H.S ROAD
DIBRUGARH TOWN
PO PS AND DIST DIBRUGRAH
ASSAM 786001

3:SMTI SAYARA DEVI CHALLANI
W/O SRI BIJOYRAJ CHALLANI
PARTNERS OF M.S MOHIT TEXTILES
H.S ROAD
DIBRUGARH TOWN
PO PS AND DIST DIBRUGRAH
ASSAM 78600

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV
Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

12-06-2024

Heard Shri R. S. Mishra, learned counsel for the appellants, who by means of this appeal preferred under Section 100 of the Code of Civil Procedure, 1908 has assailed the judgment and decree dated 12.12.2022 passed by the learned District Judge, Dibrugarh in Money Appeal No. 01/2019 whereby the judgment and decree dated 02.08.2017 passed by the learned Civil Judge, Dibrugarh in Money Suit No. 11/2005 is set aside.

The appellants were the plaintiffs in the suit instituted for recovery of money. The suit was decreed by the Trial Court which however was reversed by the First Appellate Court.

It is contended that the invocation of the Assam Money Lenders Act, 1934 was uncalled for as it was not the business of the plaintiffs/appellants to give loan and it was a solitary incident wherein the loan was taken by the

defendants/respondents.

Let the appeal be admitted on the following substantial question of law:-

“Whether the transaction of Rs.3,00,000/- between the predecessor-in-interest of the appellants and the respondents would come within the definition of loan under the Assam Money Lenders Act, 1934 and therefore whether the suit would be barred under the said Act?”

This Court may frame any other substantial questions of law at the time of hearing with notice to the respective parties.

Call for the records.

Let steps be taken for service of notice upon the respondents by usual process.

Steps within 2 (two) days.

List this matter after 6 (six) weeks along with the service report.

JUDGE

Comparing Assistant