

GAHC010079582019



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

Case No. : RSA 163/2019

1:ON THE DEATH OF ABDUL MANNAN KHANDAKAR, HIS LEGAL HEIRS
REPRESENTING
GUWHATI, ASSAM.

1.1: MUSHARRAF HUSSAIN KHANDAKAR
R/O- RUKMINI NAGAR
NEAR HOUSING COLONY
BELTOLA ROAD
DISPUR
GUWAHATI- 781006
DIST.- KAMRUP(M)
ASSAM.

1.2: SELIM SULTANA KHANDAKAR
REP. BY THEIR CONSTITUTED ATTORNEY
MUSHARRAF HUSSAIN KHANDAKAR
S/O- LATE ABDUL MANNAN KHANDAKAR
R/O- RUKMINI NAGAR
NEAR HOUSING COLONY
BELTOLA ROAD
DISPUR
GUWAHATI- 781006
DIST.- KAMRUP(M)
ASSAM.

1.3: SHAHADAT HUSSAIN
REP. BY THEIR CONSTITUTED ATTORNEY
MUSHARRAF HUSSAIN KHANDAKAR
S/O- LATE ABDUL MANNAN KHANDAKAR
R/O- RUKMINI NAGAR
NEAR HOUSING COLONY
BELTOLA ROAD
DISPUR
GUWAHATI- 781006

DIST.- KAMRUP(M)
ASSAM.

1.4: ANOWAR HUSSAIN KHANDAKAR
REP. BY THEIR CONSTITUTED ATTORNEY
MUSHARRAF HUSSAIN KHANDAKAR
S/O- LATE ABDUL MANNAN KHANDAKAR
R/O- RUKMINI NAGAR
NEAR HOUSING COLONY
BELTOLA ROAD
DISPUR
GUWAHATI- 781006
DIST.- KAMRUP(M)
ASSAM.

1.5: ZAKIR HUSSAIN KHANDAKAR
REP. BY THEIR CONSTITUTED ATTORNEY
MUSHARRAF HUSSAIN KHANDAKAR
S/O- LATE ABDUL MANNAN KHANDAKAR
R/O- RUKMINI NAGAR
NEAR HOUSING COLONY
BELTOLA ROAD
DISPUR
GUWAHATI- 781006
DIST.- KAMRUP(M)
ASSAM

VERSUS

1:MD. MOHAMMAD IDRISH ALI AND ANR
S/O- LATE IBRAHIM ALI, PRESENTLY RESIDING AT HOUSE NO. 5,
JALUKBARI, GUWAHATI- 781014, DIST.- KAMRUP(M), ASSAM.

2:DR. IRSHAD ALI
S/O- LATE IBRAHIM ALI
PRESENTLY RESIDING AT HOUSE NO. 5
JALUKBARI
GUWAHATI- 781014
DIST.- KAMRUP(M)
ASSAM

Advocate for the Petitioner : S ALI

Advocate for the Respondent : MR. A SATTAR

BEFORE

HON'BLE MR. JUSTICE MIR ALFAZ ALI

ORDER

07-08-2019.

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

This regular second appeal is admitted to be heard on the following substantial questions of law:

(1) Whether there is violation and non-compliance of the provisions of Order XX Rule 18 of the CPC in passing the impugned judgment and decree?

(2) Whether the learned Courts below mis-conceived, mis-construed and wrongly interpreted the Gift Deeds i.e. Exhibit D12 to D17 executed by Abdul Mannan Khandakar (original defendant No.1) in favour of his sons and daughters, in respect to his entire 2 Bighas of land, before the institution of the suit and the learned Courts below arrived at perverse and illegal findings in deciding the issues?

(3) Whether the judgments suffer from the vices of perversity in holding that the plaintiff has been in possession of the suit land, which fact has not been supported by the witnesses of the plaintiff?

Issue notice returnable within four weeks.

As all the respondents have been represented by the learned counsel Mr. Z. Mukit, no formal notice need to be sent. However requisite number of copies of memo of appeal be furnished to the learned counsel.

The appellants will be at liberty to raise any other substantial question of law, if so desire, at the time of hearing.

Call for the LCR from the Court of learned Munsiff No.2, Kamrup (M) at Guwahati, pertaining to Title Suit No.48/2003 (renumbered as Title Suit No.967/2006) as well as the LCR pertaining to Title Appeal No.138/2013, from the Court of learned Civil Judge No.3, Kamrup (M) at Guwahati.

JUDGE

Comparing Assistant