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

Case No. : RSA/54/2026

KUSHAL BARMAN AND 5 ORS.
S/O LATE MALO BARMAN, RESIDENT OF VILL- NO.1 GHORATHAL,
MOUZA- PASCHIM BARKHETRI, P.S- MUKALMUA, DIST- NALBARI,
ASSAM- 781126

2: SADA BARMAN
S/O LATE MALO BARMAN
RESIDENT OF VILL- NO.1 GHORATHAL
MOUZA- PASCHIM BARKHETRI
P.S- MUKALMUA
DIST- NALBARI
ASSAM- 781126

3: HITESH BARMAN
S/O LATE MALO BARMAN
RESIDENT OF VILL- NO.1 GHORATHAL
MOUZA- PASCHIM BARKHETRI
P.S- MUKALMUA
DIST- NALBARI
ASSAM- 781126

4: BHAGAWAN BARMAN
S/O LATE MALO BARMAN
RESIDENT OF VILL- NO.1 GHORATHAL
MOUZA- PASCHIM BARKHETRI
P.S- MUKALMUA
DIST- NALBARI
ASSAM- 781126

5: BHUBAN BARMAN
S/O LATE MALO BARMAN
RESIDENT OF VILL- NO.1 GHORATHAL
MOUZA- PASCHIM BARKHETRI
P.S- MUKALMUA
DIST- NALBARI
ASSAM- 781126

6: DAIBAKI BARMAN
W/O LATE MALO BARMAN

RESIDENT OF VILL- NO.1 GHORATHAL
MOUZA- PASCHIM BARKHETRI
P.S- MUKALMUA
DIST- NALBARI
ASSAM- 78112

VERSUS

MD. AACHAN ALI
S/O LATE SAYATULLA AKOND, R/O VILL- GHARUWABAHA, MOUZA-
UTTAR BARKHETRI, P.S- MUKALMUA, DIST- NALBARI, ASSAM - 781126

Advocate for the Petitioner : S K PODDAR, R MANDAL,MR. C SHARMA,MR. R GHOSH,MS.
N PODDAR,MR. S K SAHARIAH

Advocate for the Respondent : MR P UPADHYAY (FOR CAVEATOR), MS. JYOTI CHETRY (FOR
CAVEATOR),MR A UPADHYAY (FOR CAVEATOR)

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date - 17.06.2026

- 1.** Heard Mr. S. K. Poddar, the learned counsel for the appellants.
- 2.** This appeal under order 100 of the Code of Civil Procedure, 1908 read with Order 42 Rule 1 of the said code has been filed by the appellants impugning the judgment and decree dated 06.02.2026 passed by the Court of the learned Civil Judge (Senior Division) Nalbari in Title Appeal No. 8/2022, whereby the appeal filed by the present appellants was dismissed and the judgment and decree dated 12.05.2022 passed by the Court of the learned Munsiff No. 1/Civil Judge (Junior Division) No.1, Nalbari in Title Suit No. 64/2016 has been affirmed.

3. After considering the submissions made by the learned counsel for the appellants as well as after going through the materials on record, the following substantial question of law are formulated in this appeal.
 - i. Whether a co-pattdar joint owner can transfer his share by selling a specific plot of land giving four boundaries without there being any formal partition of suit patta and without ascertaining the shares of individual co-pattadars when the land in question belongs to seven persons?*
 - ii. Whether the decree for recovery of specific plot of land can be passed against co-pattadar without there being a formal partition of the land of the co-pattadars?*
 - iii. Whether without any appeal from the plaintiff against the judgment and decree, the First Appellate Court can in an appeal filed by the defendant, modify the decree on its own motion in favour of the plaintiff?*
4. Issue notice to the respondent.
5. The learned counsel for the appellants submits that the sole respondent has already appeared in this case by filing a caveat and the name of their engaged counsel for the respondent/caveator is also reflected in the cause list, however, no one is present.
6. The learned counsel for the appellants further submits that he has furnished a copy of memo of appeal along with annexure to the caveator.
7. Let the records of the Trial Court as well as the First Appellate Court be called for.

8. Let this appeal be listed on 05.08.2026.

JUDGE

Comparing Assistant