

GAHC010118252019



2026:GAU-AS:116

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

Case No. : RFA/60/2019

S. DALBIR SINGH FLORA
S/O- LATE SOHAN SINGH FLORA, R/O- FLORA BHAWAN, H.B. ROAD
MACHKHOWA, H/NO. 94, P.S. BHARALUMUKH, GUWAHATI, ASSAM, PIN-
781009.

VERSUS

S. PAL SINGH FLORA AND 4 ORS.
S/O- LATE SOHAN SINGH FLORA, R/O- VILL.- ASSET ALCAZAR,
SARJAPUR, P.O. SARJAPUR, BANGALORE, KARNATAKA, PIN- 562125.

2:MRS. RAVINDER KAUR VIRDI
W/O- S.D.S. VIRDI
R/O- VILL.- CHAWNGTHU INN
GOLDEN ESTATE (SPRING SIDE)
NONGTHYMMAI
JINGKIENG
SHILLONG
PIN- 793014.

3:MRS. MANJIT KAUR BHAMRA
W/O- LATE INDERJEET SINGH BHAMAH
R/O- VILL.- NEW PUNJAB
ENGG WORK
A.T. ROAD ITACHALI
NAGAON
ASSAM
PIN- 782003.

4:MRS. SURINDER KAUR NOTEY
W/O- SRI NARINDER SINGH NOTEY
R/O- VILL.- OPPOSITE AGILE HOSPITAL

JAYANAGAR CHARIALI
GUWAHATI
ASSAM
PIN- 781028.

5:MRS. PARAMJIT KAUR BHAMRAH
W/O- SRI JASPAL SINGH BHAMRAH
R/O- VILL.- HOOLUNGGOORU TEA ESTATE
P.O. MARIANI
DIST.- JORHAT
ASSAM
PIN- 785634

Advocate for the Petitioner : MR. A C SARMA, MR G BHARADWAJ,MR B DEORI

Advocate for the Respondent : MR. N P BARUAH, MR. D J MAHANTA

Linked Case : I.A.(Civil)/1932/2019

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R/O- FLORA BHAWAN
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Advocate for : MR. A C SARMA
Advocate for : appearing for S. PAL SINGH FLORA AND 4 ORS

:: BEFORE ::

(HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA)

Advocate(s) for the Appellant : Mr. A.C. Sarma,
Sr. Advocate.

Advocate(s) for the Respondents : Mr. D.J. Mahanta,
Advocate.

Date on which judgment is reserved : 04.09.2025.

Date of pronouncement of judgment : 06.01.2026.

Whether the pronouncement is of the

operative part of the judgment? : YES.

Whether the full judgment has been

pronounced? : YES.

JUDGMENT AND ORDER(CAV)

Heard Mr. A.C. Sarma, learned senior counsel representing the appellant as well as Mr. D.J. Mahanta, learned counsel appearing for the respondents.

2. This is a Regular First Appeal under Section 96 of the Code of Civil Procedure (CPC) whereby the judgment dated 27.03.2019 passed by the court of learned Civil Judge No.1, Kamrup (M) at Guwahati in Title Suit No.338/2015 is under challenge.

3. The present respondents, being the plaintiffs before the trial court, are the legal heirs of late Sohan Singh Flora and late Pritam Kaur Flora. They follow Hindu religion. In fact, late Sohan Singh Flora and late Pritam Kaur Flora had seven children including the present respondents, the present appellant and late Jasbir Singh Flora.

4. The respondent S. Pal Singh Flora, late Jasbir Singh Flora and the appellant S. Dalbir Singh Flora are the sons. The respondents Mrs. R. Ravinder Kaur Viridi, Mrs. Manjit Kaur Bhamra, Mrs. Surinder Kaur Notey and Mrs. Paramjit Kaur Bhamra are the daughters.

5. In his lifetime, late Sohan Singh Flora had purchased a plot of land measuring 3.34 Are under Dag No.117 of Patta No.636 at Guwahati Mouza, village Sahar Guwahati Pt.-1 in the district of Kamrup. He constructed an RCC building and a Assam Type House over the said plot of land, which are known as "Flora Bhawan". The appellant and respondents were born in the said building. On attaining majority, all of them married.

6. In the year 1987, Sohan Singh Flora expired. After his death, the land was mutated in the name of late Pritam Kaur Flora on 11.11.1991. By that time, late Jasbir Singh Flora had already died unmarried.

7. It may be mentioned that the respondents Mrs. R. Ravinder Kaur Viridi, Mrs. Manjit Kaur Bhamra, Mrs. Surinder Kaur Notey and Mrs. Paramjit Kaur Bhamra were married and they started living in their matrimonial house. All of them used to visit Flora Bhawan and used to stay in some particular rooms where they used to stay before their marriage.

8. During the lifetime of Pritam Kaur Flora, she used to collect rent from some portion of the house, which were let out to some other persons. The respondents and the present appellant also used to visit their mother Pritam Kaur Flora and looked after her and helped in the maintenance of the property. The appellant S. Dalbir Singh Flora also used to stay in the said property along with his mother Pritam Kaur Flora.

9. On 14.07.2008, Mrs. Pritam Kaur Flora expired leaving behind the aforementioned legal heirs. Now, the respondents have claimed that they are entitled to equal share with the appellant as S. Dalbir Singh Flora in the said property and S. Dalbir Singh Flora was not interested in that proposition.

10. Therefore, the respondents filed the suit praying for partition of the property and for recovery of possession of their shares.

11. S. Dalbir Singh Flora had contested the case by filing the written statement. He has claimed that the suit property is not divisible as there is no vacant land in the said property. He also claimed that his sisters are not entitled to any share in the property because they were given sufficient "streedhan" at the time of their marriage. According to S. Dalbir Singh Flora, his sisters do not have right to seek share in the dwelling house, which is known as Flora Bhawan.

12. On the basis of the pleadings of the parties, the trial court framed the following issues:

1. Whether there is cause of action for this suit?
2. Whether the plaintiffs are entitled to a decree declaring that the suit property described in Schedule-A allotting the plaintiffs their respective divided shares in the separation to the defendant share? (sic.)
3. Whether a preliminary decree can be passed directing the concerned Revenue Officer to measure the suit property and to appropriate the respective shares to each of the parties to the suit ? (sic.)?
4. To what other relief/reliefs the parties are entitled to under the law and equity?

13. At the time of hearing, the respondents/plaintiffs examined 6(six) witnesses including S. Pal Singh Flora, Mrs. R. Ravinder Kaur Viridi, Mrs. Manjit Kaur Bhamra, Mrs. Surinder Kaur Notey, Mrs. Paramjit Kaur Bhamra and Devinder Singh Viridi. The present appellant being the sole defendant examined himself only.

14. On the basis of the evidence on record, the trial court partly decreed the suit directing the Revenue Authorities to partition the suit property in metes and bounds. Being aggrieved by the decision of the trial court, the present appellant i.e. the defendant before the trial court has filed this appeal.

15. The primary ground of appeal is that prior to 2005, daughters belonging to Mitakshsara School of Hindu Law were not entitled to inherit property left behind by their fathers. It has been pleaded that Sohan Singh Flora died prior to 2005 and therefore, Section 6 of the Hindu Succession Act, 1956 is applicable and by virtue of which, the daughters are not entitled to inherit their father's property.

16. Mr. Sarma has pointed out that Section 110 of the Limitation Act, 1963 provides the period of limitation of 12 years for claiming partition of the ancestral property by a person excluded from a joint family property to enforce a right to the share therein. According to Mr. Sarma, the claim of the daughters of late Sohan Singh Flora are barred by law of limitation.

17. Thus, the points for determination in this appeal are- (1) as to whether, being the members of Mitakshsara School of Hindu Law, the daughters are entitled to equal share in the property left behind by their father after his demise in the year 1987 and (2) whether the claim of the daughters of late Sohan Singh Flora are barred by limitation?

18. Both the aforesaid points for determination are mixed issues of fact and law. I have found that the trial court did not frame any such issues. This Court is of the opinion that on the aforesaid two issues the opinion of the trial court is not assailed. Therefore, this is a fit case for remand. Accordingly, the appeal is allowed and the impugned judgment is set aside.

19. The trial court is directed to frame additional issues as mentioned hereinbefore and thereafter pass a fresh judgment on all issues including the issues already framed by the trial court. Before passing the judgment, both sides shall be given opportunities to place their oral arguments.

With the aforesaid direction, the appeal along with the Interlocutory Application are is disposed of. Send back the TCR.

JUDGE

Comparing Assistant