

GAHC010118352019



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

Case No. : RSA 211/2019

- 1: SRI BANSHI RABIDAS AND 4 ORS
S/O- LATE NATHURAM RABIDAS @ NATHANI RABIDAS.
- 2: SRI HANSHI RABIDAS
S/O- LATE NATHURAM RABIDAS @ NATHANI RABIDAS.
- 3: SRI DILIP RABIDAS @ BOUWA
S/O- LATE NATHURAM RABIDAS @ NATHANI RABIDAS.
- 4: SMT. CHANDRA RABIDAS
W/O- LATE RAJBALI RABIDAS
- 5: SRI GHUTU RABIDAS
S/O- LATE SANIRAM RABIDAS
ALL ARE RESIDENTS OF VILLAGE NO. 2
BHETAGAON
P.O. AND P.S. BIJNI
DIST.- CHIRANG
ASSAM
PIN- 783391

VERSUS

- 1: SRI AJIT SARKAR AND 5 ORS
S/O- LATE ABHAY CHANDRA SARKAR.
- 2: SRI ANIL SARKAR
S/O- LATE ABHAY CHANDRA SARKAR.
- 3: SRI UTTAM RABIDAS
S/O- LATE RAJBALI RABIDAS
- 4: SRI GAUTOM RABI DAS
S/O- LATE RAJBALI RABIDAS

5:SRI NITAI RABIDAS
S/O- LATE RAJBALI RABIDAS

6:SMTI. PINKI RABIDAS (MINOR)
D/O- LATE RAJBALI RABIDAS
REP. BY HER MOTHER SMTI. CHANDRA RABIDAS
ALL ARE RESIDENTS OF VILLAGE NO. 2
BHETAGAON
P.O. AND P.S. BIJNI
DIST.- CHIRANG
ASSAM
PIN- 783391

Advocate for the Petitioner : MR. A C SARMA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 20-11-2019

Heard Mr. A.C. Sarma, learned Senior Counsel, assisted by Mr. B. Haldar, learned counsel for the appellants.

This second appeal is admitted on the following substantial questions of law:

- 1. Whether the learned lower appellate Court erred in law in allowing the appeal by holding that the defendants are protected under the provision of the Assam (Temporarily Settled Areas) Tenancy Act, 1971 and cannot be evicted?*
- 2. Whether the learned lower appellate Court erred in law in travelling beyond the pleading by making a new case for the defendants to the effect that defendants are non-evictable tenants?*

Any other substantial question of law that may be formulated at the time of hearing.

Issue Notice, returnable in 8 weeks.

The appellants shall take steps for service of notice on the respondents by Registered

Post with A/D as well as by usual process within 5 (five) days from today.

Let the LCR be called for.

List after 8 (eight) weeks.

JUDGE

Comparing Assistant