

RSA 50/2017  
BEFORE  
HON'BLE MR JUSTICE KALYAN RAI SURANA

Heard Mr. S. Ali, learned counsel appearing for the appellant as well as Mr. S.C . Sancheti, learned counsel appearing for the caveator/respondent.

By filing this appeal under Section 100 of the CPC, the appellant has challenged the concurrent finding by both the courts below. The T.A. No. 100/2014 filed by the respondent in the Court of learned Civil Judge, Kamrup (R), Amingaon was decreed by judgment and decree dated 26.02.2015, which was confirmed in appeal by the first appellate judgment and decree dated 01.11.2016 passed by the learned District Judge, Kamrup (R), Amingaon in T.A. No. 1/2015.

The appeal is admitted on the following substantial questions of law:

i) Whether recovery of possession can be decreed in the absence of any declaration of right, title and interest over the suit land and in the absence of the ingredients provided under Articles 64 and 65 of the Limitation Act, 1963.

ii) Whether the conditional judgment and decree dated 28.08.2008 passed in Title Suit No. 148/2008 became redundant, infructuous, unenforceable and un-executable, after the lapse of the period of six months mentioned in the decree as the plaintiff failed to comply with the mandate of the decree by paying the balance consideration to the defendant Nos. 1 to 4 or by depositing the same in Court within time to get the Sale Deed registered.

iii) Whether a third party stranger can challenge a Registered Sale Deed, without having acquired any right, title and interest over the land concerned.

iv) Whether the plaintiff is entitled to the benefit of Section 52 of the Transfer of Property Act, when no lis or proceeding was pending at the time when the appellant-Defendant No.5, purchased the suit land.

The appellant is permitted to place any other substantial questions of law at the time of hearing.

Call for the LCR.

As the sole respondent is already entered appearance no fresh notice is required to be issued.

List the matter after 4(four) weeks, awaiting LCR.