

GAHC010223622023



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

Case No. : RSA/183/2023

ABUL HUSSAIN BARBHUIYA
S/O LATE ABDUL MANNAF BARBHUIYA
VILLAGE KAPNARPAR, P.O. KALIBARI BAZAR, DISTRICT HAILAKANDI,
ASSAM

VERSUS

ANOWAR HUSSAIN BARBHUIYA AND ANR
S/O LATE ABDUL MANNAF BARBHUIYA ,
VILLAGE KAPNARPAR, PO. KALIBARI BAZAR , DIST HAILAKANDI,
ASSAM, PIN 788150

2:MUSSTT. RIZMA BEGUM BARBHUIYA
W/O NURUL HAQUE LASKAR

R/O HAILAKANDI TOWN
WARD NO 13
PO.O. R.P ROAD
DIST HAILAKANDI
ASSAM
PIN 788155

RESPONDENT NO 3 TO 10 HAS BEEN STRUCK OFF AS PER HON'BLE
COURT'S ORDER DATED 22.09.2023 PASSED IN MC NO. 838/201

Advocate for the Petitioner : MS. N THAPA

Advocate for the Respondent : MR. B CHAKRAVARTY

Linked Case : RSA/90/2014

ABDUL MATIN LASKAR
S/O HAZI MASUR ALI LASKAR
R/O VILL. NABIN SONAPUR
PARGANA HAILAKANDI
ASSAM.

VERSUS

ABUL HUSSAIN BARBHUIYA and 2 ORS.
S/O LATE ABDUL MANNAF BARBHUIYA
R/O VILL. KAPNARPAR
P.O.KALIBARI BAZAR
DIST. HAILAKANDI
ASSAM.
PIN 788150

2:ANOWAR HUSSAIN BARBHUIYA
S/O LATE ABDUL MANNAF BARBHUIYA
VILL. KAPNARPAR
P.O. KALIBARI BAZAR
DIST. HAILAKANDI
ASSAM
PINN 788150

3:MUSSTT. RIZMA BEGUM BARBHUIYA
W/O MD. NURUL HAQUE LASKAR
R/O HAILKANDI TOWN
WARD NO. 13
P.O. R.P. ROAD
DIST. HAILAKANDI
ASSAM
PIN 788155

Advocate for : MR.B SINHA

Advocate for : MR.S U AHMED appearing for ABUL HUSSAIN BARBHUIYA and 2
ORS.

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 29.01.2024

Heard Mr. B.Sinha, learned counsel for the appellant. None appears for the respondents.

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

- i. The substantial question of law arises as to whether the family arrangement made orally has extinguished the right and title of the Defendant No.1 over the land purchased by the predecessor of the plaintiff and the defendant No.1 jointly by sale deed dated 28.09.1966 (Ext-1) without any proper partition deed of total land?
- ii. The substantial question of law arises as to whether courts below are justified in arriving at the finding that the vendor (Defendant No.1) of the appellant by his act acquiescence and waiver virtually seized right and title over the land described in schedule-I of the plaint that purchased jointly by sale deed dated 28.09.1966 (Ext-1)?
- iii. For that the substantial question of law arises as to whether a sale deed No.2098 dated 06.06.2003(Ext-8) executed by the Defendant No.1 in favour of the Defendant No.2 (Appellant) is illegal?

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

LCR is received.

List the case for hearing in due course along with RSA 90/2014.

JUDGE

Comparing Assistant