

GAHC010147342024



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

**Case No. : RSA/148/2024**

MD ABDUL HAMID AND 7 ORS  
S/O LATE ABED ALI  
RESIDENT OF VILLAGE DOULATPUR, PO DOULATPUR, PS BIHPURIA, DIST  
LAKHIMPUR, ASSAM 787054

2: ROFIKUL ISLAM

S/O LATE KHURSHED ALI

RESIDENT OF VILLAGE DOULATPUR  
PO DOULATPUR  
PS BIHPURIA  
DIST LAKHIMPUR  
ASSAM 787054

3: ABDUL KHALIL  
S/O LATE KHURSHED ALI

RESIDENT OF VILLAGE DOULATPUR  
PO DOULATPUR  
PS BIHPURIA  
DIST LAKHIMPUR  
ASSAM 787054

4: NOOR ISLAM

S/O ABDUL JALIL

RESIDENT OF VILLAGE DOULATPUR  
PO DOULATPUR  
PS BIHPURIA  
DIST LAKHIMPUR  
ASSAM 787054

5: NOOR HUDA  
S/O ABDUL JALIL  
RESIDENT OF VILLAGE DOULATPUR  
PO DOULATPUR  
PS BIHPURIA  
DIST LAKHIMPUR  
ASSAM 787054

6: NOOR MOHAMMAD  
S/O ABDUL JALIL  
RESIDENT OF VILLAGE DOULATPUR  
PO DOULATPUR  
PS BIHPURIA  
DIST LAKHIMPUR  
ASSAM 787054

7: MOLLIKA KHATUN  
W/O ABDUL JALIL  
RESIDENT OF VILLAGE DOULATPUR  
PO DOULATPUR  
PS BIHPURIA  
DIST LAKHIMPUR  
ASSAM 787054

8: JAIMONA NESSA  
W/O LATE KHURSHED ALI  
RESIDENT OF VILLAGE DOULATPUR  
PO DOULATPUR  
PS BIHPURIA  
DIST LAKHIMPUR  
ASSAM 78705

VERSUS

MD SHEKHBAR ALI AND 2 ORS  
S/O LATE SUKUR MAMUD,  
RESIDENT OF VILLAGE RANGCHALI, PO ANGARKHUWA, PS PANIGAON,  
DIST LAKHIMPUR ASSAM, 787031

2:MD. AKBAR ALI  
S/O LATE SUKUR MAMUD  
RESIDENT OF VILLAGE BORLUA  
PO DOLOHAT  
PS NORTH LAKHIMPUR  
DIST. LAKHIMPUR  
ASSAM  
787023

3:MD. NEKBAR ALI  
S/O LATE SUKUR MAMUD  
RESIDENT OF VILLAGE NO. 1  
AHMEDPUR PO ISLAMGAON  
PS BIHPURIA  
DIST LAKHIMPUR  
ASSAM 78705

**Advocate for the Petitioner** : MR. M K HUSSAIN, MR. M ALOM, MS ASFIA AHMED, MR  
AZIZUR RAHMAN

**Advocate for the Respondent** : ,

**BEFORE**  
**HON'BLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**14.08.2024**

Heard Mr. M.K. Hussain, learned counsel for the appellants.

This regular second appeal is directed against the judgment and order dated 31.05.2024 passed in Title Appeal No.11/2023, by the learned Civil Judge (Senior Division), Lakhimpur, North Lakhimpur. It is to be noted here that vide impugned judgment and order dated 31.05.2024, the learned Civil Judge (Senior Division), Lakhimpur, North Lakhimpur, had dismissed the appeal thereby affirming and upholding the judgment and order dated 08.09.2023 and the decree dated 16.09.2023 passed in Title Suit No.04/2015 passed by the learned Munsiff No.2, Lakhimpur, North Lakhimpur.

Perused the memo of appeal and the grounds mentioned therein and also the impugned judgment and order dated 31.05.2024 in Title Appeal No.11/2023 and also the judgment and order dated 08.09.2023 and the decree dated 16.09.2023 passed in Title Suit No.04/2015.

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

- (i) Whether the respondents are entitled to any relief from the learned Trial Court as well as Lower Appellate Court without having title and possession over the suit land?
- (ii) Whether the learned Lower Appellate Court is justified in shifting the onus of proof upon the appellants when the respondents have miserably failed to prove their pleaded case during trial?
- (iii) Whether the appellants are legally entitled to be evicted from the suit land since the appellants have been enjoying exclusive possession of the suit land by constructing dwelling houses and by planting trees?
- (iv) Whether the appellants are liable to be evicted from their land on the basis of uncorroborated testimony of the respondents from any independent witness and in absence of any documentary evidence?
- (v) Whether the finding of the learned Trial Court as well as the Appellate Court are sustainable in law in view of the suit barred by limitation?

Let notice be issued to the respondents, returnable within 4(four) weeks.

Step be taken by registered post with A/D and also by usual process within a week from today.

Registry shall call for the record from the learned Lower Appellate Court and also from the Court of learned Munsiff No.2, Lakhimpur, North Lakhimpur.

List after 4(four) weeks.

**Sd/- Robin Phukan**  
**JUDGE**

**Comparing Assistant**