

GAHC010161102009



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

Case No. : RSA/9/2009

NANEE BARUAH
D/O LT. HEM KANTA BARUAH, R/O VILL. PANIGAON, PS. NAGAON SADAR,
NAGAON, PIN-1, DISET. NAGAON, ASSAM.

2: MUKUL HAZARIKA
S/O DEBEN HAZARIKA
R/O VIL. PANIGAON POLY ROAD
PS. NAGAON SADAR
NAGAON
DIST. NAGAON
ASSA

VERSUS

ON THE DEATH OF DEENA NATH BARUAH, HIS LEGAL HEIRS and ORS
NAMELY-

1.1:UJJAL BARUAH
S/O LT. DEENA NATH BARUAH
R/O VILL. HAIBARGAON
LAWKHOWA ROAD
PO HAIBARGAON
PS. NAGAON SADAR
DIST. NAGAON
ASSAM
PIN 782002

1.2:SRI UTPAL BARUAH
S/O LT. DEENA NATH BARUAH
R/O VILL. HAIBARGAON
LAWKHOWA ROAD
PO HAIBARGAON
PS. NAGAON SADAR
DIST. NAGAON
ASSAM

PIN 782002

1.3:SMTI MEGHALI BARUAH
W/O SRI DEBA KANTA SARMAH
D/O LT. DEENA NATH BARUAH
R/O VILL AND P.O.-MAJPATHARI
PIN-782003
DIST-NAGAON
ASSAM

1.4:SMTI UPAMA BARUAH
W/O LATE BHUPEN SARMAH BARUAH
D/O LATE DEENA NATH BARUAH
R/O TILOK DEKA ROAD
NATUN BAZAR
PIN-782003
DIST- NAGAON
ASSAM

2:HARENDRA BORA

S/O LT. THAGIRAM BORA

3:JIBAN BORA

S/O LT. GULUK BORA

4:BIREN BORA

S/O LT. DHANIRAM BORA

5:LAXMI RAM BORA

S/O LT. KAMAL BORA

6:DULAN BORA

S/O LT. GULUK BORA.

7:MADHAB BORA

S/O TIPAI BORA
ALL ARE RESIDENTS OF VILL. PAMILAGAON
PS. KACHUWA
MOUZA-JARABARI
DIST. NAGAON
ASSAM.

8:GULAK BORA

R/O VILL. KAMPUR
SUB REGISTERAR OFFICE
MOUZA-KAMRUP
DIST. NAGAON
ASSA

Advocate for the appellant(s): Mr. D Mozumder, Senior Advocate
Mr. S Biswas

Advocate for the respondent(s): Mr. J Singh

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

18.03.2025

Heard Mr. D Mazumder, the learned senior counsel assisted by Mr. S Biswas, the learned counsel appearing on behalf of the appellants. Mr. J Singh, the learned counsel appears on behalf of the respondents.

2. Upon hearing the matter at length, this Court is of the opinion that the substantial question of law so framed on 21.01.2009, *prima facie*, appears to be not substantial questions of law involved in the instant appeal. However, Mr. D Mozumder, the learned senior counsel drew the attention of this Court to certain facts which had been duly admitted as would be apparent from the evidence. He submitted the fact that the gift deeds which were specifically described in

Schedule 'kha' to the plaint having been admitted to have been executed by the plaintiff and the only grievance of the plaintiff was that he did not receive the remaining part of the consideration, for which, the suit was filed, a substantial question of law arises in the instant appeal. The learned senior counsel, therefore, submitted that this Court may frame an additional substantial question of law.

3. This Court upon hearing the learned counsel appearing on behalf of the parties and upon perusal of the materials on record is of the opinion that an additional substantial question of law can be formulated in the instant appeal in terms with Section 100(4) of the Code. The additional substantial question of law reads as under:

“Whether the learned Courts below were justified in decreeing the suit in favour of the plaintiff when it was an admitted fact that the plaintiff had duly executed the deeds specifically described in Schedule 'kha' and the grievance of the plaintiff could have been taken care of by the provisions of Section 55(4)(b) of the Transfer of Property Act, 1882?”

4. Taking into account that an additional substantial question of law has been framed, at the stage of hearing, this Court gives an opportunity to the respondent herein to address this Court as to whether the above substantial question of law so framed is involved in the present appeal.

5. Accordingly, list this matter on 22.04.2025 at the top of the list.

JUDGE

Comparing Assistant