

GAHC010163842021



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

**Case No. : RSA/138/2021**

URBASHI RABHA AND 5 ORS.  
W/O- LATE SHIVDAS RABHA, R/O- VILL.- HALOWAPARA, P.S. LAKHIPUR,  
DIST.- GOALPARA, ASSAM

2: SMTI. RUBI RABHA  
D/O- LATE SHIVDAS RABHA  
R/O- VILL.- HALOWAPARA  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

3: SMTI. ANILA RABHA  
D/O- LATE SHIVDAS RABHA  
R/O- VILL.- HALOWAPARA  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

4: SMTI. SABITRI RABHA  
D/O- LATE SHIVDAS RABHA  
R/O- VILL.- HALOWAPARA  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

5: DHIRESH RABHA  
S/O- LATE SHIVDAS RABHA  
R/O- VILL.- HALOWAPARA  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

6: SMTI. MINOTI RABHA  
D/O- LATE SHIVDAS RABHA

R/O- VILL.- HALOWAPARA  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSA

VERSUS

MOHIR UDDIN AHMED AND 14 ORS.  
S/O- DALOWAR HUSSAIN, R/O- VILL.- LAKHIPUR (HALOWAPARA), P.S.  
LAKHIPUR, DIST.- GOALPARA, ASSAM

2:EUSUF ALIL AHMED  
S/O- DALOWAR HUSSAIN  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

3:JONA RABHA  
D/O- LATE SHAYANU RABHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

4:MONA RABHA  
D/O- LATE SHAYANU RABHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

5:TONA RABHA  
D/O- LATE SHAYANU RABHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

6:SUMITA RABHA  
D/O- NAYANU RABHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

7:ROMILA RABHA  
D/O- NAYANU RABHA

R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

8:BUNESWAR PRASAD SHA  
S/O- LATE GAYA SHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

9:SUBAL RABHA  
S/O- LATE SUSHIL RABHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

10:SANDHYA RABHA  
W/O- KONGRESS RABHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

11:BABUL RAY  
S/O- LATE RADHESHYAM RAY  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

12:PUTUL RABHA  
W/O- BIPUL NATH  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

13:PRABHA RABHA  
D/O- LATE KARUN RABHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

14:VETLA RABHA

S/O- GANESH RABHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

15:HAGURI RABHA  
D/O- SUSHIL RABHA  
R/O- VILL.- LAKHIPUR (HALOWAPARA)  
P.S. LAKHIPUR  
DIST.- GOALPARA  
ASSAM

16:STATE OF ASSAM  
ASSAM

17:SETTLEMENT OFFICER  
GOALPARA DISTRICT  
ASSAM

18:ASSTT. SETTLEMENT OFFICER  
LAKHIPUR CIRCLE  
LAKHIPUR

**Advocate for the Petitioner** : MR. R SARMA

**Advocate for the Respondent** :

**BEFORE**  
**HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

**ORDER**

**20.12.2021**

Heard Mr. R. Sarma, learned senior counsel appearing for the appellant.

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

1. Whether the direction given by the trial court to pay cost of Rs.8,000/- by the present appellant to the respondent is sustainable in law?
2. Whether the persuasive burden of proof under section 101 of the Indian Evidence Act can be shifted upon the defendant?

3. Whether in a suit for partition, the rights of the parties can be fully and finally decided without passing a preliminary decree?
4. Whether the findings of the learned lower appellate court with regard to Issue No. IX is perverse?
5. Whether the suit land, being *Touzibahira Khatian* land, were validly transferred in favour of the defendant no. 4 in compliance with the provisions of the *Assam (Temporarily Settled Areas) Tenancy Rules, 1972*?

The appellant shall be at liberty to raise any other substantial questions of law at the time of hearing.

Issue Notice.

Appellant shall take for service of notice upon the respondents by registered post with A/D and other usual process.

Call for the LCR.

List after 6 (six) weeks.

JUDGE

**Comparing Assistant**