

GAHC010182542012



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

Case No. : RSA/102/2012

DWIJEN CHOUDHURY and 5 ORS
S/O LATE HARA NATH CHOUDHURY

2: SMT. PRANITA CHOUDHURY

3: SMT. HEMA CHOUDHURY

4: SMT. RANJITA CHOUDHURY

5: SMT. DIPIKA CHIOUDHURY

6: GOPESH CHOUDHURY

NO. 2 IS THE WIFE

NO. 3

4 AND 5 ARE THE DAUGHTERS AND NO 6 IS THE SON OF LATE KISHORE
CHOUDHURY

ALL ARE RESIDENT OF VILLAGE-PATHSALA

MOUZA-UTTAR BALAJI

P.S. PATACHARKUCHI

DIST. BARPETA

ASSAM

VERSUS

PABITRA CHOUDHURY

S/O LATE LAKSHI KANTA CHOUDHURY, R/O PATHSALA TOWN, MOUZA-
UTTAR BALAJI, DIST. BARPETA, ASSAM.

For the Appellant(s) : Mr. B. D. Deka, Advocate

For the Respondent(s) : Mr. N. Alam, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 21.03.2024

1. This Court upon hearing the parties is of the opinion that in addition to the substantial question of law which was formulated by this Court on 20.06.2012, the following additional substantial questions of law arises in the instant appeal for consideration:

- (i) Whether the First Appellate Court was justified in not granting the relief of permanent injunction after coming to a categorical finding that the suit land was not a partitioned land?
- (ii) Whether the learned First Appellate Court was justified in not taking into consideration the provision of Section 44 of the Transfer of Property Act, 1882 while dismissing the suit of the plaintiff?
- (iii) Whether the exercise of jurisdiction by the learned First Appellate Court was inconsonance with the provisions of Order XLI Rule 31 of the Code?

2. Mr. N. Alam, the learned counsel appearing on behalf of the Respondents shall be at liberty to argue on the next date that these additional substantial questions of law along with earlier framed substantial question of law are not

involved in the instant appeal.

3. This Court further directs the Appellants to give an entire set of Memo of Appeal to Mr. N. Alam, the learned counsel during the course of the day.

4. List the matter again on 09.04.2024.

JUDGE

Comparing Assistant