

GAHC010188532024



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

Case No. : RSA/173/2024

ON THE DEATH OF MD ABDUL JABBAR HIS LEGAL HEIRS AMBIYA
KHATUN @ AMBIA KHATUN AND 4 ORS
(WIFE)
RESIDENT OF VILAGE BHEHUGURI, PO SILPUKHURI, PS MIKIRBHETA,
DIST MORIGAON, ASSAM 782123

2: MOSFI UDDIN AHMED
(SON)
RESIDENT OF VILAGE BHEHUGURI
PO SILPUKHURI
PS MIKIRBHETA
DIST MORIGAON
ASSAM 782123

3: SULTAN MAHMUD ZAKARIA
(SON)
RESIDENT OF VILAGE BHEHUGURI
PO SILPUKHURI
PS MIKIRBHETA
DIST MORIGAON
ASSAM 782123

4: SHAHNAJ KOHINUR
(DAUGHTER)
RESIDENT OF VILAGE BHEHUGURI
PO SILPUKHURI
PS MIKIRBHETA
DIST MORIGAON
ASSAM 782123

5: HASINA KOHINUR
(DAUGHTER)
RESIDENT OF VILAGE BHEHUGURI

PO SILPUKHURI
PS MIKIRBHETA
DIST MORIGAON
ASSAM 78212

VERSUS

ON THE DEATH OF GIRISH CH NATH HIS LEGAL HEIRS SWAPNA
BORKAKATI AND ORS
WIFE
RESIDENT OF SARASWATI APARTMENT (BHATIA), PS DISPUR , PO DISPUR
DIST KAMRUP M ASSAM 781005

2:DHIREN BORKAKATI
(SON)
RESIDENT OF SARASWATI APARTMENT (BHATIA)
PS DISPUR
PO DISPUR DIST KAMRUP M ASSAM 781005

3:MAINA BORKAKATI
(SON)
RESIDENT OF SARASWATI APARTMENT (BHATIA)
PS DISPUR
PO DISPUR DIST KAMRUP M ASSAM 781005

4:KABINDRA MOHAN BORKAKATI
S/O LATE PURNA CH. NATH

DIRECTOR OF AGRICULTURE DEPTT.
PO KHANAPARA
DIST KAMRUP M ASSAM 781022
PERMANENT ADDRESS
VILLAGE BORIGAON
PO HABIBARANGABARI
PS MIKIRBHETA
DIST MORIGAON
ASSAM 782103

5:MD. JALAL UDDIN

S/O LATE IBRAHIM
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

6:MD. MAMUD ALI
S/O LATE IBRAHIM
RESIDENT OF VILLAGE BHEHUGIR

PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

7:MD. FAKAR UDDIN

S/O JLAL UDDIN
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

8:ON THE DEATH OF MD. AYNE ALI HIS LEGAL HEIRS
HALIMA KHATUN
(WIFE)
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

9:NUR JAMAL
(SON)
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

10:GULZAR HUSSAIN
(SON)
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

11:DILDAR HUSSAIN
(SON)
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

12:UME HANI
(DAUGHTER)
W/O ABDUL KALAM
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

13:ABDUL REZZAK
S/O LATE SWAB ALI
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

14:ON THE DEATH OF ABDUL HYE
HIS LEGAL HEIR RASHIDA KHATUN
(WIFE)
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

15:FERDOUS ALI
(SON)
RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

16:MUBARAK ALI
S/O LATE SWAB ALI

RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

17:MD. AHIJ UDDIN
S/O LATE SWAB ALI

RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

18:MD. TAHURUDDIN
S/O LATE SWAB ALI

RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

19:MD. ISMILE
S/O LATE SWAB ALI

RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

20:MD. RABI HUSSAIN
S/O LATE SWAB ALI

RESIDENT OF VILLAGE BHEHUGIR
PO SILPUKHURI
PS MIKIRBHETA DIST MORIGAON ASSAM 782123

21:MD. SAMSUDDIN

S/O RAJAB ALI

RESIDENT OFDIGHALI PATHAR
PO ROWMARI BILL
PS MIKIRBHETA
DIST MORIGAON
ASSAM 782123

22:MD. NAZIMUDDIN

S/O KARFUL ALI

RESIDENT OFDIGHALI PATHAR
PO ROWMARI BILL
PS MIKIRBHETA
DIST MORIGAON
ASSAM 782123

23:SRI LAHAR BORKAKATI

S/O LATE LEELA BORKAKATI

RESIDENT OF NALINIBALA PATH
CHRISTIAN BASTI GUWAHATI PO DISPUR DIST KAMRUP M ASSAM
781005
PERMANENT ADDRESS
VILLAGE BORIGAON
PO HABI BARANGABARI
MOUZA AND PS MIKIRBHETA DIST MORIGAON
ASSAM 782105

24:SRI DAWAR BORKAKATI @ HEMANTA DAWAR BORKAKATI

S/O LATE LEELA BORKAKATI

RESIDENT OF NALINIBALA PATH
CHRISTIAN BASTI GUWAHATI PO DISPUR DIST KAMRUP M ASSAM
781005
PERMANENT ADDRESS
VILLAGE BORIGAON
PO HABI BARANGABARI
MOUZA AND PS MIKIRBHETA DIST MORIGAON
ASSAM 782105

25:SMTI DEEPTI BORKAKATI

W/O LATE LEELA BORKAKATI

RESIDENT OF NALINIBALA PATH
CHRISTIAN BASTI GUWAHATI PO DISPUR DIST KAMRUP M ASSAM

781005
PERMANENT ADDRESS
VILLAGE BORIGAON
PO HABI BARANGABARI
MOUZA AND PS MIKIRBHETA DIST MORIGAON
ASSAM 782105

26:SMTI PALKI BORKAKATI
D/O LATE LEELA BORKAKATI

RESIDENT OF NALINIBALA PATH
CHRISTIAN BASTI GUWAHATI PO DISPUR DIST KAMRUP M ASSAM
781005
PERMANENT ADDRESS
VILLAGE BORIGAON
PO HABI BARANGABARI
MOUZA AND PS MIKIRBHETA DIST MORIGAON
ASSAM 78210

Advocate for the Petitioner : MS. R CHOUDHURY, MS F N ZAMAN,MS. B. HAZARIKA

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 20.09.2024

Heard Ms. R. Choudhury, learned counsel for the appellants.

2. This second appeal is directed against the judgment and decree dated 06.06.2024, passed by the learned Civil Judge (Senior Division), Morigaon, in Title Appeal No. 10/2018.

3. It is to be noted here that vide impugned judgment and decree dated 06.06.2024, the learned first appellate Court has dismissed the appeal, thereby upholding the judgment and decree dated 08.08.2018, passed by the learned Munsiff No. 1, Morigaon, in Title Suit No. 50/2012, whereby the suit of the plaintiff was dismissed.

4. Perused the memo of appeal and the grounds mentioned therein and also perused the impugned judgment and decree dated 06.06.2024, passed by the learned Civil Judge (Senior Division), Morigaon, in Title Appeal No. 10/2018 and judgment and decree dated 08.08.2018, passed by the learned Munsiff No. 1, Morigaon, in Title Suit No. 50/2012.
5. This second appeal is admitted on the following substantial questions of law:
 - (i) Whether the Courts below have committed wrong by not considering the purchase deeds i.e. Exhibits 11, 12 and 13, as valid in spite of the law that the registered sale deeds carry presumption of genuineness?
 - (ii) Whether in absence of any prayer or counter claim by the defendants, the learned Courts below are correct in declaring the purchase registered sale deeds of the appellants/plaintiffs as void?
6. This Court may also consider framing of any other substantial question of law, if found necessary at the time of hearing with due notice to the parties.
7. Issue notice to the respondents returnable in four weeks.
8. Steps be taken upon the respondents by way of registered post with A/D as well as by usual process within a week from today.
9. Registry shall call for the records from the learned trial Court as well as the learned first appellate Court.
10. As prayed for by Ms. Choudhury, learned counsel for the appellants, permission is accorded to send copy of the memo of appeal along with notice.
11. List the matter after four weeks.

JUDGE

Comparing Assistant