

GAHC010194082025



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

**Case No. : RSA/197/2025**

ABDUL HANIF AHMED AND 3 ORS  
ASSAM

2: HAMIDUL ISLAM

ASSAM

3: HASHIBUL ISLAM  
ASSAM

4: HABIBUL ISLAM  
ALL ARE SONS OF LATE SAIDUR RAHMAN  
R/O VILL. MIAPARA  
MANKACHAR  
P.O. AND P.S. MANKACHAR  
DIST. SOUTH SALMARA  
MANKACHAR  
ASSAM

VERSUS

UOPN THE DEATH OF LATE HIRALAL SHARMAH HIS LEGAL HEIRS  
GANESH SHARMAH AND 10 ORS  
ASSAM

2: CHANDAN SHARMAH  
ASSAM

3: SANTOSH SHARMAH  
ASSAM

4: RANJIT SHARMAH  
ASSAM

5:USHA DEVI  
ASSAM

6:LAKSHMI SHARMAH  
ASSAM

7:SUMITA SHARMAH  
RESPONDENT NOS 1  
2

3 AND 4 ARE SONS

RESPONDENT NO 5 IS THE WIFE AND RESPONDENT NOS. 6 AND 7 ARE  
THE DAUGHTERS OF LATE HIRALAL SHARMAH. ALL ARE R/O VILL.

MANKACHAR TINIALI

P.O. AND P.S. MANKACHAR

DIST. SOUTH SALMARA MANKACHAR

ASSAM.

8:THE STATE OF ASSAM  
REPRESENTED BY THE COLLECTOR  
DHUBRI  
ASSAM.

9:THE ASSTT. SETTLEMENT OFFICER

MANKACHAR CIRCLE  
AT MANKACHAR

10:THE SETTLEMENT OFFICER

DHUBRI KOKRAJHAR.

11:SAIYED ALI

S/O LATE TAIYOB UDDIN  
VILL. JORDANGA (BORMANPARA)  
P.S. MANKACHAR  
DIST. DHUBRI  
ASSA

**Advocate for the Petitioner** : MR. S K TALUKDAR, T R OVUNG,MS. S T BOKTH,MR. S  
BANIK,MR. A SAYED

**Advocate for the Respondent** : ,

**BEFORE  
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**19.11.2025**

- 1.** Heard Mr. S. Banik, learned counsel for the appellant.
- 2.** This is an regular second appeal under Section 100 read with Order XLII of the Code of Civil Procedure, 1908 has been preferred by the appellants, who were the defendant nos.4 to 7 in the Original Title Suit No.39/2016 impugning the judgment and decree dated 03.06.2025 passed by the Court of learned Civil Judge (Senior Division), South Salmara, Mankachar, whereby the Title Appeal No.3/2021, which was preferred by the present appellant was dismissed and the judgment and decree dated 27.11.2020, passed by the Court of learned Civil Judge Junior Division, Hatsingimari in Title Suit No.39/2016 was upheld.
- 3.** After going through the memo of appeal as well as other documents annexed therein and after considering the submissions made by the learned counsel for the appellant following the substantial question of laws is formulated in this regular second appeal :

“(i) Whether a new suit filed with an additional cause of action after withdrawal of an earlier suit extends the period of limitation for the new suit, where some of the reliefs sought for are barred by limitation;

(ii) Whether the trial court as well as First Appellate Court came to a perverse finding on the issue of limitation to the extent that they ignored the applicability of Order XXIII Rule 2, CPC, read with Article 58 of the Limitation Act, in holding that Title Suit

No.39/2016 is not barred by the limitation.

- 4.** Issue notice to the respondents.
- 5.** The appellant shall take steps for issuance of notice upon the respondents by speed post within 3 (three) days from the date of this order returnable on 16.12.2025.
- 6.** List accordingly.

**JUDGE**

**Comparing Assistant**