

GAHC010218812022



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

Case No. : RSA/8/2023

UPEN BEZBARUAH @ UPEN SEAL
S/O LATE SABIN BEZBARUAH @ SABIN CHANDRA SEAL,
VILL.- MADAN MOHAN SAKHOWA,
MAUZA- BAHJANI,
DIST.- NALBARI (ASSAM).

VERSUS

JOGEN BEZBARUAH
S/O LATE NABIN BEZBARUAH,
VILL.- MADAN MOHAN SAKHOWA,
MAUZA- BAHJANI,
DIST.- NALBARI (ASSAM).

Advocate for the Petitioner : MR K BHUYAN

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

18.01.2023

Heard Mr. K. Bhuyan, learned counsel for the appellant.

The appeal is **admitted** on the following substantial questions of law:

“1. Whether rejecting the petition filed by the appellant for vacating ex-parte order was improper by not allowing to file his written statement but allowed to take part in cross-examination in the eye of law.

2. Whether any cause of action arises for filing of the suit whereas the respondent/PW-1 himself was admitted in his cross-examination by admitting that the respondent/PW-1 has been in possession in respect of his share of ancestral land/suit land which was separated while the father of both the parties were alive.

3. Whether the appellant was in peaceful possession of the suit land since his childhood with his father and such possession has been continuing till date. That, on 05.05.1974 as a right of inheritance to the land covering total land under Patta No.13 was mutated in the name of appellant's father with Subhadra Priya appeared on the Jamabandi Copy dated 15.09.2014 under 'Unga' are on records at village-Bahjani, Lat No.6 Madan Muhan Sakhuwa in the District of Nalbari, Assam is unchallenged, is enforceable in accordance with law."

The Appellants may be allowed to raise any other Substantial Question of Law at the time of hearing.

Call for the LCR.

Issue notice upon the respondent by registered A/D post as well as usual process within five days.

List the matter 6(six) weeks.

The prayer for interim relief will be considered only after service of notice on the respondent/appearance of respondent.

JUDGE

Comparing Assistant