

GAHC010231102018



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

Case No. : RSA 30/2019

1: MUSST NEHARUN NESSA AND 8 ORS
W/O LATE MOHAMMAD ALI, S/O LATE MOHAMMAD ALI, VILL.
SAIREINGHI PATHAR, MOUZA KAPAHBARI, P.S. MORAJHAR, DIST.
NAGAON, ASSAM, PIN 782439

2: MD. SAMSUDDIN
W/O LATE MOHAMMAD ALI
S/O LATE MOHAMMAD ALI
VILL. SAIREINGHI PATHAR
MOUZA KAPAHBARI
P.S. MORAJHAR
DIST. NAGAON
ASSAM
PIN 782439

3: M. KAMAR UDDIN
W/O LATE MOHAMMAD ALI
S/O LATE MOHAMMAD ALI
VILL. SAIREINGHI PATHAR
MOUZA KAPAHBARI
P.S. MORAJHAR
DIST. NAGAON
ASSAM
PIN 782439

4: MD. SAMIR UDDIN
W/O LATE MOHAMMAD ALI
S/O LATE MOHAMMAD ALI
VILL. SAIREINGHI PATHAR
MOUZA KAPAHBARI
P.S. MORAJHAR
DIST. NAGAON
ASSAM
PIN 782439

5: FAKAR UDDIN
W/O LATE MOHAMMAD ALI
S/O LATE MOHAMMAD ALI
VILL. SAIREINGHI PATHAR
MOUZA KAPAHBARI
P.S. MORAJHAR
DIST. NAGAON
ASSAM
PIN 782439

6: SIRAJ UDDIN
W/O LATE MOHAMMAD ALI
S/O LATE MOHAMMAD ALI
VILL. SAIREINGHI PATHAR
MOUZA KAPAHBARI
P.S. MORAJHAR
DIST. NAGAON
ASSAM
PIN 782439

7: ASAR UDDIN
W/O LATE MOHAMMAD ALI
S/O LATE MOHAMMAD ALI
VILL. SAIREINGHI PATHAR
MOUZA KAPAHBARI
P.S. MORAJHAR
DIST. NAGAON
ASSAM
PIN 782439

8: MD. ALAL UDDIN
W/O LATE MOHAMMAD ALI
S/O LATE MOHAMMAD ALI
VILL. SAIREINGHI PATHAR
MOUZA KAPAHBARI
P.S. MORAJHAR
DIST. NAGAON
ASSAM
PIN 782439

9: MD. JOYNAB BIBI
W/O LATE MOHAMMAD ALI
S/O LATE MOHAMMAD ALI
VILL. SAIREINGHI PATHAR
MOUZA KAPAHBARI
P.S. MORAJHAR
DIST. NAGAON

ASSAM
PIN 78243

VERSUS

1:MD MAJIR UDDIN AND 7 ORS
R/O VILL. SAREINGHI PATHAR, MOUZA KAPAHBARI, P/S MURAJAHAR,
DIST. NAGAON (ASSAM), PIN 782439

2:MD. ALLAH UDDIN
S/O LATE FAIYAI ALI
R/O AND VILL. SAREINGHI PATHAR
MOUZA KAPAHBARI
P/S MURAJAHAR
DIST. NAGAON
ASSAM
PIN 782439

3:HAJI RIYAZ UDDIN
S/O LATE FAIYAI ALI
R/O AND VILL. SAREINGHI PATHAR
MOUZA KAPAHBARI
P/S MURAJAHAR
DIST. NAGAON
ASSAM
PIN 782439

4:MUSST. SAMSUN NESSA
S/O LATE FAIYAI ALI
R/O AND VILL. SAREINGHI PATHAR
MOUZA KAPAHBARI
P/S MURAJAHAR
DIST. NAGAON
ASSAM
PIN 782439

5:MUSST. KARFUL NESSA
S/O LATE FAIYAI ALI
R/O AND VILL. SAREINGHI PATHAR
MOUZA KAPAHBARI
P/S MURAJAHAR
DIST. NAGAON
ASSAM
PIN 782439

6:MUSST. KAMALA BIBI
S/O LATE FAIYAI ALI
R/O AND VILL. SAREINGHI PATHAR

MOUZA KAPAHBARI
P/S MURAJAHAR
DIST. NAGAON
ASSAM
PIN 782439

7:MUSST. TITHAN NESSA
S/O LATE FAIYAI ALI
R/O AND VILL. SAREINGHI PATHAR
MOUZA KAPAHBARI
P/S MURAJAHAR
DIST. NAGAON
ASSAM
PIN 782439

8:MD. MOINA MIYA
S/O LATE OMAR ALI
R/O AND VILL. SAREINGHI PATHAR
MOUZA KAPAHBARI
P/S MURAJAHAR
DIST. NAGAON
ASSAM
PIN 78243

Advocate for the Petitioner : MR. A CHOUDHURY

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI**

ORDER

Date : 13-02-2019

Heard Mr. A Choudhury, learned counsel for the appellant.

This regular second appeal is directed against the judgment and decree dated 06.07.2018 passed by learned Additional District Judge, Nagaon in Title Appeal No.28(N)/2016 arising out of Title Suit No.8/2012.

The appeal is admitted to be heard on the following substantial questions of law:

1. Whether the instant judgment and decree suffers from illegality for

being in violation under Order 41 Rule 31 CPC?

2. *Whether the learned Court below fell in error by wrongly shifting the burden to the defendant?*

3. *Whether the learned Court below committed illegality while declaring title of the plaintiff solely on the basis of entries in the revenue records?*

Issue notice to the respondents, returnable in 4 (four) weeks.

Steps for service of notice upon the respondents by Registered Post with A/D as well as through usual process within 7 (seven) days.

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

Call for the LCR.

J U D G E

Smita

Comparing Assistant