

GAHC010250742022



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

Case No. : RSA/187/2022

ON THE DEATH OF SABITA DAS BARUAH HER LEGAL HEIRS PRAMOD
BARUAH AND ANR.
HUSBAND OF LATE SABITA DAS BARUAH,
RESIDENT OF HOUSE NO. 6, BAMUNIMAIDAM, MILANPUR, GUWAHATI 21,
DIST KAMRUP M ASSAM

2: SHRI SHIVA BARUAH

SON OF LATE SABITA DAS BARUAH

RESIDENT OF HOUSE NO. 6
BAMUNIMAIDAM
MILANPUR
GUWAHATI 21
DIST KAMRUP M ASSA

VERSUS

KALYANI DEVI GOSWAMI AND 2 ORS.
W/O SRI NARENDRA GOSWAMI,
RESIDENT OF BAMUNIMAIDAM, MILANPUR, GUWAHATI 21, CHANDMARI
, DIST KAMRUP M ASSAM

2:ON THE DEATH OF NARENDRA GOSWAMI
HIS HEIRS AND LEGAL REPRESENTATIVE SHRI KIRAN GOSWAMI
S/O SRI NARENDRA GOSWAMI

RESIDENT OF BAMUNIMAIDAM
MILANPUR
GUWAHATI 21
CHANDMARI
DIST KAMRUP M ASSAM

3:SMTI RIYA GOSWAMI

D/O SRI NARENDRA GOSWAMI

RESIDENT OF BAMUNIMAIDAM
MILANPUR
GUWAHATI 21
CHANDMARI
DIST KAMRUP M ASSAM

4:SHRI GAYA SARMA
S/O UNKNOWN
RESIDENT OF BAMUNIMAIDAM
MILANPUR
GUWAHATI 21
CHANDMARI
DIST KAMRUP M ASSA

Advocate for the Petitioner : S ALI

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

14.12.2022

Heard Mr. S. Ali, learned counsel for the appellants.

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

- 1. For that, whether the learned First Appellate Court is legally justified in relying upon Exhibit No. B i.e. certified copy of the sale deed No. 5330 dated 13.06.2003 as valid document which has not been proved by the defendants-respondents with its contents thereof as per Section 65 and 67 of the Evidence Act by comparing and proving the same with the original Sale Deed exhibited as Exhibit-F by the defendants-respondents.*
- 2. For that, whether the learned First Appellate Court is legally*

justified in holding that the "Exhibit-F" i.e. Regd. Sale Deed No. 6330 dated 13.06.2003 and that the contents thereof does not required to be proved under Section 67 of the Indian Evidence Act, though the said Sale Deed has been challenged by the plaintiffs as void, illegal and fraudulent document.

3. For that, whether the defendants' burden of proving the Exhibit No. B i.e. certified copy of the Sale Deed No. 5330 dated 13.06.2003 as secondary evidence can be waived or ignored by the First Appellate Court on an absurd ground that the plaintiffs failed to prove the said Sale Deed exhibited by them as Exhibit-2 which is in the form of certified copy by complying Section 65 of the Indian Evidence Act.

Any other Substantial Question of Law that may arise at the time of hearing

Call for the LCR.

Issue **notice**.

The appellants/applicants shall take steps for service of notice upon the respondents within seven days from today by registered post with A/D post as well as under usual process.

List the matter after receipt of the LCR.

JUDGE

Comparing Assistant