

GAHC010260632018



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

Case No. : RSA 23/2019

1:MD EUNWESH ALI @ MD UNSH ALI
S/O LATE AYAB ALI @ AYUB ALI,
RESIDENT OF VILLAGE CHAKUMAKU,
MOUZA GOVA, PS JAGIROAD, DIST MORIGAON(ASSAM) 782105

VERSUS

1:MUSSTT AMIRAN NESSA AND 7 ORS
W/O LATE AYAB ALI @ AYUB ALI,
RESIDENT OF VILLAGE CHAKUMAKU,
MOUZA GOVA, PS JAGIROAD, DIST MORIGAON(ASSAM) 782105

2:MUSSTT NOORJAHAN BEGUM
D/O LATE AYAB ALI @ AYUB ALI

RESIDENT OF VILLAGE CHAKUMAKU

MOUZA GOVA
PS JAGIROAD
DIST MORIGAON(ASSAM) 782105

3:MUSSTT. ATARJAN NESSA
D/O LATE AYAB ALI @ AYUB ALI

RESIDENT OF VILLAGE CHAKUMAKU

MOUZA GOVA
PS JAGIROAD
DIST MORIGAON(ASSAM) 782105

4:MUSSTT. HALIMA BEGUM
D/O LATE AYAB ALI @ AYUB ALI
RESIDENT OF VILLAGE CHAKUMAKU
MOUZA GOVA, PS JAGIROAD, DIST MORIGAON(ASSAM) 782105

5:MUSST. MANIKJAN NESSA
D/O LATE AYAB ALI @ AYUB ALI
RESIDENT OF VILLAGE CHAKUMAKU
MOUZA GOVA
PS JAGIROAD
DIST MORIGAON(ASSAM) 782105

6:MD. NUR MIYAN
S/O HAREJ ALI
RESIDENT OF VILLAGE CHAKUMAKU
MOUZA GOVA
PS JAGIROAD
DIST MORIGAON(ASSAM) 782105

7:MD. CHAND MAMUD
S/O HAREJ ALI
RESIDENT OF VILLAGE CHAKUMAKU
MOUZA GOVA, PS JAGIROAD
DIST MORIGAON(ASSAM) 782105

8:MD. ABDUL MALEK
S/O IDRISH ALI,
RESIDENT OF VILLAGE CHAKUMAKU
MOUZA GOVA
PS JAGIROAD, DIST MORIGAON(ASSAM) 78210

Advocate for the Petitioner : G UDDIN

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE PRASANTA KUMAR DEKA**

ORDER

Date : 25-01-2019

Heard Mr. G. Uddin, learned counsel for the appellant.

This second appeal arose out of the judgment and decree dated 20.8.2018 passed in Title Appeal No. 16/2017 by the learned Civil Judge, Morigaon. This second appeal is admitted on the following substantial question of law:

(i).For that, the substantial question of law involved in the case is that whether learned

Appellate court below was correct in dismissing the suit by affirming the findings of the learned trial court, which was passed without following provisions of Order 20 Rule 18(1) and Order 20 Rule 18(2), read with 54 of the Code of Civil Procedure, 1908? In this case, the court pronounced the judgment dated 8.5.2017 without following those mandatory provisions of CPC and hence the said decree was passed in ignorance of provision of law and is void and a nullity.

(ii) For that the substantial question of law involved in this case is that whether the Appellate Court was justified in its findings by dismissing the case by interpreting order VI Rule 4 of CPC and interpreting Section 40.41 of Assam Land Revenue Regulation, even after deciding the share of respective legal heirs shares including the appellant as Mohammadin Law of inheritance where already shares remain fixed and in a case where defendants admitted the appellant as legal heirs of Late Ayub Ali.

Any other substantial questions of law those may be formulated at the time of hearing.

Call for the LCR

Appellant shall take steps on the respondents within a period of three days from today by way of registered post with A/D returnable on 13.3.2019.

JUDGE

Comparing Assistant