

GAHC010293552019



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

Case No. : RSA 56/2020

1:MUSSTT. SAHIDA BEGUM
W/O- SAFUR UDDIN, R/O- VILL.- MALATIKHAMA, NOW RESIDING AT
GAURIPUR, GAURIPUR TOWN, P.O. AND P.S. GAURIPUR, DIST.- DHUBRI,
PIN- 783331.

VERSUS

1:SRI JOYDEV AGARWALA AND 4 ORS
S/O- LATE RAMESWAR AGARWALA, R/O- WARD NO. 15, DHUBRI TOWN,
P.O., P.S. AND DIST.- DHUBRI, PIN- 783301.

2:ON THE DEATH OF OM PRAKESH AGARWALA
HIS LEGAL HEIRS REPRESENTING
S/O- LATE SITA RAM AGARWALA
SUBSTITUTED VIDE ORDER DATED- 15-12-2008.

2.1:SMT. SOMA SUUNDARI AGARWALA (WIFE)
R/O- WARD NO. 5
DHUBRI TOWN
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783301.

2.2:SRI MULCHAND AGARWALA (SON)
R/O- WARD NO. 5
DHUBRI TOWN
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783301.

2.3:SRI SATYA NARAYAN AGARWALA (SON)
R/O- WARD NO. 5
DHUBRI TOWN
P.S. AND DIST.- DHUBRI

ASSAM
PIN- 783301.

3:MD. SAMSUL HOQUE
S/O- AKTAR UDDIN
R/O- VILL.- PUB TIAMARI PART-II
P.O. AND P.S. GAURIPUR
DIST.- DHUBRI
PIN- 783331.

4:ABDUL HAKIM
S/O- LATE MOINUDDIN SK
VILL.- MADHUSOULMARI PART-I
P.S. GAURIPUR
DIST.- DHUBRI
ASSAM
PIN- 783331.

5:SAIYADA RAHMAN
W/O- MOZIBAR RAHMAN
R/O- VILL.- KHAGRABARI
P.S. GOLAKGANJ
DIST.- DHUBRI
ASSAM
PIN- 783331

Advocate for the Petitioner : MR. S DAS

Advocate for the Respondent :

BEFORE
THE HON'BLE MR JUSTICE PRASANTA KUMAR DEKA
ORDER

16.10.2020

Head Mr. MA Sheikh, learned counsel for the appellant.

This second appeal is against the judgment and decree dated 26.08.2019 passed in T.A. 19/2015 by the learned Civil Judge, Dhubri, which is admitted on the following substantial question of law.

- i. Whether non submission of the documents relied by the plaintiffs

respondents at the time of filing the plaint and mere exhibiting at the stage of evidence but without the leave of the court hit the admissibility of the said documents and whether the issue of admissibility can be reopened at the appellate stage, the same being not related with the mode of proof of the said documents?

- ii. Whether the findings of the first appellate court on Ext. A and Ext.B being the rent receipts are perverse and whether any person holding any immovable property as a tenant has the right to continue after coming into force the Assam State Acquisition of Zamidaries Act, 1951 inasmuch as the suit land falls within the erstwhile Gouripur estate?

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

LCRs be called for. Let notice be issued. Appellant shall take steps on the respondents within a period of one week from today both by registered post A/D and usual process.

Notice is made returnable after six weeks.

JUDGE

Comparing Assistant