

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3786 OF 2003

SABER ALI AND ORS. Appellant (s)

VERSUS

PARMESH SARMAH AND ORS. Respondent(s)

Date: 16/08/2010 This Appeal was called on for hearing today.

CORAM :

MR. JUSTICE MARKANDEY KATJU
MR. JUSTICE T.S. THAKUR

For Appellant(s) Mr. P.K. Goswami, Sr. Adv.
Mr. Rajiv Mehta, Adv.

For Respondent(s) Mr. Arjnabh Chowdhury, Adv.
Mrs Manik Karanjawala, Adv.
Mr. Rartim Gogai, Adv.
Mr. Gainilung Panmei, Adv.

UPON hearing counsel the Court made the following
O R D E R

The Appeal is allowed. No costs.

(Rajesh Dham)
Court Master

(Indu Satija)
Court Master

(signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 3786 OF 2003

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VERSUS

PARMESH SARMAH AND ORS. Respondent(s)

O R D E R

Heard the learned counsel for the parties.

This Appeal, by special leave, has been filed against
the impugned judgment of the Gauhati High Court dated

20.09.2000.

The facts of the case have already been set out in the impugned judgment of the High Court and hence we are not repeating them here.

The appellants were defendants in the suit filed by the plaintiff-respondents. The trial court, inter alia, held that the suit was barred by limitation. That judgment was upheld in the first appeal, but the High Court reversed the judgments of both the courts below.

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In our opinion, if the High Court wanted to reverse the judgments of the trial court and the first appellate court, it should have gone into the question of limitation also which it has not done. On perusing the pleadings of the parties, the trial court had framed eight issues and issue No. 4 thus framed was "Is the suit barred by limitation?" Thus, the question of limitation was decided by the trial court.

Hence, we set aside the impugned judgment of the High Court and remand the matter to the High Court to decide the appeal afresh after deciding the question of limitation also and other questions.

The Appeal is allowed accordingly. No costs.

.....J.
(MARKANDEY KATJU)

.....J.
(T.S. THAKUR)

NEW DELHI
AUGUST 16, 2010.

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