

ITEM NO.33

COURT NO.2

SECTION XIV

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

Petition(s) for Special Leave to Appeal (Civil) No(s).30578/2008

(From the judgement and order dated 14/12/2007 in CRP No.439/2007 of  
The HIGH COURT OF GUWAHATI ,ASSAM)

RAMA DEVI HIMATSINGKA & ANR. Petitioner(s)

VERSUS

RAJKUMAR JAIN & ORS. Respondent(s)

(With appln(s) for c/delay in filing SLP and prayer for interim  
relief and office report)  
(For final disposal)

Date: 10/07/2012 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ALTAMAS KABIR  
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr. U. Hazarika, Sr. Adv.  
Mr. R.B. Phookan, Adv.  
Ms. Neha T. Phookan, Adv.  
Mr. Shailesh Madiyal, Adv.  
Mr. Jagjit Singh Chhabra, AOR

For Respondent(s) Mr. Arunabh Chowdhary, Adv.  
Mr. Anupam Lal Das, AOR  
Mr. A.B. Singh, Adv.  
Mr. Anirudh Singh, Adv.

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

Delay condoned.

This special leave petition is directed against the  
judgment and order dated 14th December, 2007, passed by the  
Guwahati High Court in CRP No.439 of 2007, whereby the High  
Court affirmed the decision of the Trial Court, rejecting  
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the petitioners' application under Order VII Rule 11 C.P.C.  
for dismissal of the suit filed by the respondent No.1  
herein. The High Court also accepted the Trial Court's view  
with regard to the non-maintainability of the suit under  
Section 154 of the Assam Land and Revenue Regulation, 1886.

We have heard Mr. U. Hazarika, learned senior counsel  
appearing on behalf of the petitioners, on the said two  
questions, which had been negated by the Trial Court, as  
well as by the High Court.

Having regard to the long drawn out litigation  
between the parties and the various suits, which had been  
filed inter se between them, we are inclined to agree with

the view taken, both by the Trial Court, as well as by the High Court, that the question which has been raised with regard to limitation under Article 59 of the Limitation Act, 1963, read with Section 3 of the Transfer of Property Act, 1882, will have to be decided on evidence to be taken in the matter.

Having regard to the above, we are not inclined to entertain the special leave petition and the same is, accordingly, dismissed.

However, we also make it clear that any observation made in this order should not, in any way, influence the outcome of the suit, which is pending between the parties.

(Chetan Kumar)  
Court Master

(Juginder Kaur)  
Assistant Registrar

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