

GAHC010194612020



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

Case No : I.A.(Civil)/1368/2021

ON THE DEATH OF BRAHMADEO PRASAD BIN
HIS LEGAL HEIRS

2: BACHU PRASAD BIN
R/O D.K. ROAD
WARD NO. 16
P.O.-BIDYAPARA
DIST-DHUBRI
ASSAM
PIN-783324

3: ARUN PRASAD BIN
R/O D.K. ROAD
WARD NO. 16
P.O.-BIDYAPARA
DIST-DHUBRI
ASSAM
PIN-783324

4: DULU PRASAD BIN
R/O D.K. ROAD
WARD NO. 16
P.O.-BIDYAPARA
DIST-DHUBRI
ASSAM
PIN-783324

5: RAJKUMAR PRASAD BIN
R/O D.K. ROAD
WARD NO. 16
P.O.-BIDYAPARA
DIST-DHUBRI
ASSAM

PIN-783324
VERSUS

ON THE DEATH OF GIRISH DAS BISWAS
HIS LEGAL HEIRS

2:MONORAMA DAS
R/O R.K. MISSION ROAD
P.O.-BIDYAPARA
DIST-DHUBRI
ASSAM
PIN-783324

3:RAJU DAS
R/O R.K. MISSION ROAD
P.O.-BIDYAPARA
DIST-DHUBRI
ASSAM
PIN-783324

4:SMTI. JAMUNA RAY (DAS)
R/O R.K. MISSION ROAD
P.O.-BIDYAPARA
DIST-DHUBRI
ASSAM
PIN-783324

Advocate for : MR D KALITA
Advocate for : appearing for ON THE DEATH OF GIRISH DAS BISWAS

Linked Case : RSA/19/2010

ON THE DEATH OF BRAHMADEO PRASAD BIN HIS LEGAL HEIRS BACCHU
PRASAD BIN and ORS

ARUN PRASAD BIN DULU PRASAD BIN RAJKUMAR PRASAD BIN

VERSUS

GIRISH DAS BISWAS and 3 ORS
S/O LATE GOYA RAM BISWAS
R/O R.K. MISSION ROAD
WARD NO. 16 OF DHUBRI TOWN
P.O.
P.S. and DIST. DHUBRI
ASSAM.

Advocate for : J PURKAYASTHA
Advocate for : FOR CAVEATOR appearing for GIRISH DAS BISWAS and 3 ORS

Linked Case : RSA/270/2019

BACHCHU PROSAD BIN @ BACHU PROSAD BIN AND 3 ORS.
S/O- BRAHMADEO PROSAD BIN
R/O- WARD NO. 16
DHUBRI TOWN
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783324.

2: ARUN PROSAD BIN
S/O- BRAHMADEO PROSAD BIN
R/O- WARD NO. 16
DHUBRI TOWN
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783324.

3: DULU PROSAD BIN
S/O- BRAHMADEO PROSAD BIN
R/O- WARD NO. 16
DHUBRI TOWN
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783324.

4: RAJKUMAR PROSAD BIN
S/O- BRAHMADEO PROSAD BIN
R/O- WARD NO. 16
DHUBRI TOWN
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783324.
VERSUS

ON THE DEATH OF GIRISH DAS BISWAS
HIS LEGAL HEIRS MONORAMA DAS AND 2 ORS.
W/O- LATE GIRISH DAS BISWAS
R/O- R.K. MISSION ROAD

WARD NO. 16 OF DHUBRI TOWN
P.O.
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783324.

2:SRI RAJU DAS
S/O- LATE GIRISH DAS BISWAS
R/O- R.K. MISSION ROAD
WARD NO. 16 OF DHUBRI TOWN
P.O.
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783324.

3:JAMUNA DAS
D/O- LATE GIRISH DAS BISWAS
R/O- R.K. MISSION ROAD
WARD NO. 16 OF DHUBRI TOWN
P.O.
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783324.

Advocate for : MR G P BHOWMIK

Advocate for : appearing for ON THE DEATH OF GIRISH DAS BISWAS
HIS LEGAL HEIRS MONORAMA DAS AND 2 ORS.

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

22.03.2023

Heard the learned counsel for the applicants. Also heard Mr. S. K. Ghose, learned counsel for the respondents.

2. This present application is filed jointly by the parties under Order XXIII Rule 3 of the code of Civil Procedure by the legal representative of the sole appellant i.e. appellant Nos. 1, 2, 3 and 4 and the legal representative of the deceased sole respondent i.e. newly impleaded respondent Nos.

1(a), 1(b) and 1(c), praying for a compromise decree arising out of Title Suit No. 351/2006 and Title Appeal No. 56/2007.

3. The background facts of the two Second Appeal and the decrees can be summarized as follows:-

- I. The predecessor of respondents / opposite parties filed Title Suit No. 351/2006 before the learned Civil Judge (Sr. Division), Dhubri against Sri Satya Jiban Sarkar and other including the predecessor of the present applicants / appellants was one of the defendant as defendant No. 4, praying for acquired right, title and interest over the suit land on the basis of adverse possession. The said suit was contested by the predecessor of the present applicants/ appellants only and others did not contest. However, subsequently due to enhancement of pecuniary jurisdiction case has been transferred to the Court of learned Munsiff No. 3, Dhubri and after hearing both the parties suit of the plaintiff was dismissed on 20.08.2008.
- II. Thereafter, the predecessor of the opposite parties / respondents filed Title Appeal No. 56/2007 before the learned Civil Judge, Dhubri and the learned Civil Judge, Dhubri after hearing the parties allowed the appeal on 15.12.2009 by setting aside the judgment and decree dated 20.08.2008 and decreed the suit of the predecessor of the opposite parties / respondents.
- III. Being aggrieved thereby the predecessor of the present applicants / appellants filed RSA 19/2010 before this Court and the same was admitted for hearing.

IV. During the pendency of the RSA 19/2010, the predecessor of the applicants / appellants filed Title Suit No. 505/2009 before the learned Munsiff No. 1, Dhubri praying for declaration of right, title and interest over the suit land which is the subject matter of the suit land of RSA/19/2010. The said suit was dismissed on 19.01.2019 on the ground of res-judicata. Thereafter, the present applicants / appellants filed Title Appeal No. 7/2019 before the learned Civil Judge, Dhubri which was also dismissed on 07.09.2019. Being aggrieved thereby applicants / appellants filed RSA/270/2019 before this Court and the same is pending for admission hearing. This Court vide order dated 17.12.2020, tagged both the second appeal together.

4. The learned counsel for the parties submits that during pendency of both the appeals, both the parties have amicably settled their dispute by executing compromise deed with the following terms and conditions:-

- “1. That the second party given up their right, title, possession, interest over the land except land measuring 1 Katha which is situated on the south western corner of Schedule-A land which has been described in Schedule-B in favour of the First Party against consideration of Rs. 10,00,000/- (Ten lacs) only which is paid to the Second party in cash of Rs. 8,00,000/- (Rupees Eight lacs) and Rs. 2,00,000/- by cheque vide cheque No. (1) 929021 dated 12.08.2021 PNB Dhubri Branch (2) 001667 dated 12.08.2021 ICICI, Dhubri Branch (3) 458683 dated 12.08.2021, PNB, Dhubri Branch by the First Party. The land of First Party is specifically shown in Schedule-C below. B-Schedule land will stand in the name of Raju Das one of the Second Party.*
- 2. That in recognition of the Deed of Compromise of their dispute, the First Party will accord their consent in the respective settlement authority to correct their*

records of right of the land in the Schedule-B in the name of Sri Raju Das one of the Second Party.

- 3. That after the execution of the Deed of Compromise, the first Party has acquired absolute right, title, interest in the suit land (Except the land Schedule-C) and so the First Party is at liberty to use the Schedule-C land in the manner they desire.*
- 4. That in view of this Deed of Compromise, the dispute between the parties regarding the suit land has come to an end and both the parties have no objection at all if the Hon'ble Gauhati High Court pass a Compromise Decree in the light of the Deed of Compromise, declaring the right, title, interest of the parties in their respective part of the suit land as agreed upon by the Deed of Compromise.*
- 5. That if any party violate any condition of this DEED OF COMPROMISE in future, he or she will be liable in the Court of law. in witness whereof the parties hereto set and subscribed their respective hand on the day month and the year first hereinabove mentioned.*

Schedule-A

(suit land of the cases)

Situated in the District Dhubri in circle Dhubri at Village: Bidyapara Part-I under Dag No. 2 (old), 527/805 (New), Khatian No.3, Patta No. 436 a plot of land measuring 2B- 3K-18.7L bounded by North: Land of Pear Ali Khan, South: Land of Raju Das, East: Land of Second Party, West: Land of R.K.Mission Mandir, Homestead land of Raju Das and Municipal Land.

Schedule-B

(Land of Raju Das son of late Girish Das Biswas)

Sought West part of land in Schedule-A land measuring 1 Katha equivalent to 20 Leches bounded by North: Part of the land in

Schedule-A, South: land of Second Party and others, East- Part of the land in Schedule-A, West- Own land of Second party, Homestead land of Raju Das.

Schedule-C

(Land of First parties)

Land measuring 2 B 2 K 18.5 L out of land measuring 2 B 3 K 18.5 L covered by Dag No. 2 (old) 527/805 (New) Khatian No. 3 Patta No. 436 in the Revenue village: Bidyapara Pt-I, District- Dhubri Assam which is bounded by North- Pear Ali Khan, South: Raju Das and others, East: Raju Das and others, West: R. K.Mission Mandir, Homestead land of Raju Das and Municipal land”.

5. Perused the pleadings made in the joint application as well as the Deed of Compromise which is annexed as Annexure-I to the present application. The learned counsel submits that compromise has been entered without any fraud, undue influence or coercion.

6. As the parties have compromised the dispute, this Court approves the same and disposed both the appeals in terms of the deed of compromise which is quoted in para 4 of this order, and same will be part of the decree. Both the second appeal being RSA/19/2010 and RSA/270/2019 are accordingly, answered.

Prepare the decree accordingly.

Parties to bear their own cost.

JUDGE

Comparing Assistant