

GAHC010009032010



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

Case No. : RSA/300/2010

RAMESH ROY and 2G ORS

VERSUS

RAGHUNATH GOWALA and 3 ORS

For the Petitioner(s) : Mr. F. K. R. Ahmed, Advocate

For the Respondent(s) : Mr. S. P. Choudhury, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 04.03.2024

1. The instant second appeal has been filed challenging the judgment and decree dated 20.09.2010 passed by the learned Civil Judge, Hailakandi in Title Appeal No.5/2007 whereby the said appeal was dismissed thereby confirming the judgment and decree dated 18.12.2006 passed by the Court of the Civil Judge (Junior Division) No.2 Hailakandi in Title Suit No.72/1999.

2. It is relevant to take note of that the suit was filed by one Raghunath Goala who was the plaintiff. The said suit was decreed during the lifetime of

Raghunath Goala by the judgment and decree dated 18.12.2006. Thereupon, the appellants herein being aggrieved have preferred an appeal before the Court of the Civil Judge, Hailakandi which was registered and numbered as Title Appeal No.5/2007.

3. The record further reveals and more particularly from a decree which have been enclosed to the memo of appeal shows that during the pendency of the said appeal, the legal representatives of Raghunath Goala (expired) were duly substituted. Pursuant thereto, the appeal which was filed was dismissed by the judgment and decree dated 20.09.2010. The appellants herein thereupon did not file any appeal against the legal representatives of Late Raghunath Goala rather filed an appeal in the year 2010 against Late Raghunath Goala who was long dead at the time of the said appeal.

4. Taking into account that the appeal was not directed against the legal representatives who were already brought on record before the First Appellate Court, the judgment and decree dated 20.09.2010 passed in Title Appeal No.5/2007 had attained finality and the same cannot now be disturbed after a lapse of more than 14 years. Moreover, as the appeal has been filed against the dead person, the instant appeal is not maintainable. Consequently, the instant second appeal stands dismissed. However, in peculiar facts of the instant case, this Court is not inclined to impose any costs.

5. Interim order passed, if any, stands vacated.

JUDGE

Comparing Assistant