

GAHC010018662007



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

Case No. : SAO/4/2007

M/S B N MAZUMDER and ORS
JEWELLERS FIRM, MAIN ROAD, KARIMGANJ TOWN, PO/PS/DIST.
KARIMGANJ, ASSAM.

2: BHULA NATH MAZUMDER

S/O LT. PREMONATH MAZUMDER

3: ASHIS MAZUMDER

4: UJJAL MAZUMDER
SL.NOS. 3and4 ARE THE SONS OF BHOLA NATH MAZUMDER
R/O A.C. SEN ROAD
KARIMGANJ TOWN
PO/PS/DIST. KARIMGANJ
ASSAM

VERSUS

JAGADISH CH. BANIK
S/O NITYANANDA BANIK OF SILCHAR ROAD, KARIMGANJ TOWN,
PO/PS/DIST. KARIMGANJ AND PROP. OF M/S. SANJUKTA SWEETS and
SAVOURS AT MAIN ROAD, KARIMGANJ.

Advocate for the Petitioner : MR.S K GHOSH

Advocate for the Respondent : MR.N G KUNDU

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

25.04.2024

- 1.** This is an appeal under Section 104 read with Order XLIII Rule 1(u) of the Code of Civil Procedure, 1908 against the order dated 02.03.2007, in Money Appeal No. 01/2006 by which the learned District Judge at Karimganj remanded the suit for a fresh trial to the learned trial court.
- 2.** This court have perused the impugned order dated 02.03.2007 and from a perusal of the said order, it does not show the reason why the learned First Appellate Court had remanded the matter back to the learned trial court, that to, when the learned First Appellate Court could have decided the said appeal on its merit being the court of facts and law.
- 3.** In the opinion of this court, the said order is contrary to the provisions of Order XLI Rule 24 of the Code and as such, the impugned order dated 02.03.2007 is set aside and quashed and the learned First Appellate Court, i.e. the learned District Judge, Karimganj is directed to decide the appeal on its merits, on the basis of the materials which are already available on record.
- 4.** This court has duly taken note that the parties herein are represented before this court. Accordingly, the parties are directed to appear before the learned District Judge, Karimganj on 03.06.2024.
- 5.** The Registry is directed to forthwith transmit LCR to the court of the

learned District Judge, Karimganj and if need be by resorting to a special messenger, so that on the next date so fixed by this court, the learned First Appellate Court, i.e. the court of the learned District Judge, Karimganj is a position to take up the said appeal.

6. This court is further of the opinion that the suit was filed is of the year 1998 and almost 26 years have passed. Under such circumstances, this court request the learned District Judge, Karimganj to make an endeavour to dispose of the said appeal as expeditiously as possible and preferably within a period of 6 months from the date of appearance of the parties.
7. With the above observation, the Appeals stands disposed of.

J U D G E

Comparing Assistant