

GAHC010024302015



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

Case No. : CRP/490/2015

PABITRA DUTTA
S/O LT. SUCHIL DUTTA, R/O KATHAL PUKHURI, MOUZA- NOWBOICHA,
P.S. LALUK, DIST- LAKHIMPUR

VERSUS

MD. MANIB ANSARI and 18 ORS
S/O LT. SAHID ANSARI

2:HASEN ALI
S/O LT. SAMIRUDDIN

3:KHURECHA KHATOON
W/O MANIB ANSARI

4:RAHIM ALI
S/O HUSSEN ALI

5:ABDUL HUSSAIN
S/O BOSIRUDDIN

6:SURAB ALI
S/O LT. RUSTOM ALI

7:SAHED ALI
S/O LT. AKUB ALI

8:NIRANJAN BISWAS
S/O LT. JAGABANDHU BISWAS
ALL ARE R/O NO.30 F.C. GRANT
LALUK
DIST- LAKHIMPUR

9:NIKHIL DAS
S/O LT. SURESH DAS

10:RAM LOHAR
S/O LT. BHARAT LOHAR

11:ABDUL HEKIM
S/O LT. AHMED PRADHANI
ALL ARE R/O NO.1 PHULBARI BASTI
P.O. NORTH LAKHIMPUR
DIST- LAKHIMPUR

12:MD. AFJAL HUSSAIN
S/O LT. AZIMUDDIN
R/O CHUMANI
P.S. NORTH LAKHIMPUR
DIST- LAKHIMPUR

13:AMIR HUSSAIN
S/O LT. AJIMUDDIN

14:RAMJAN ALI
S/O HAFIJUDDIN
BOTH ARE R/O CHUMANI
P.S. NORTH LAKHIMPUR
DIST- LAKHIMPUR

15:ASADAL ALI
S/O SURAB ALI
R/O NO.30 F.C. GRANT
P.S. LALUK
DIST- LAKHIMPUR

16:THE SECY. TO THE GOVT. OF ASSAM
REVENUE DEPTT.
GOVT. OF ASSAM

17:THE DY. COMMISSIONER CUM COLLECTOR
LAKHIMPUR
NORTH LAKHIMPUR
DIST- LAKHIMPUR
ASSAM

18:THE CIRCLE OFFICER
NOWBOICHA REVENUE CIRCLE
NOWBOICHA
DIST- LAKHIMPUR

ASSAM

19:MULUK SINGH LOHAR
S/O LT. KARTIK SINGH LOHAR
R/O DOOLAHAT NO.30 F.C. GRANT
P.S. LALUK
DIST- LAKHIMPU

For the petitioner (s) : Mrs. P. Bhattacharjee, Advocate

For the respondent (s) : Mr. A. M. Khan, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

24.05.2024

This is an application under Section 115 of the Code of Civil Procedure, 1908 challenging the judgment and decree dated 22.07.2015 passed in Title Suit No.33/2012 whereby the learned Court of the Munsiff No.2, North Lakhimpur had dismissed the said suit.

2. It is relevant to take note of that the said suit was a suit filed under Section 6 of the Specific Relief Act, 1963 for recovery of possession. The only requisite for deciding a suit under Section 6 of the Specific Relief Act, 1963 is as to whether the plaintiff has been dispossessed without following the due process of law within 6 months from the date of filing of the suit.

3. This Court has taken note of the impugned judgment and decree dated 22.07.2015 and from a perusal of the said impugned judgment and decree, it reveals that from the evidence, the learned Trial Court has come to a categorical finding that the plaintiff failed to establish that he was in

possession of suit land within 6 months prior to the filing of the suit.

4. This Court, however, takes note of that the learned Trial Court has also gone into various other issues, i.e. the issues as to whether the plaintiff had right, title, interest and possession over the suit land; whether the defendant No.9 was entitled to get any compensation from the plaintiff for the suit land which was not at all necessary in a suit so filed under Section 6 of the Specific Relief Act, 1963. This Court also observes that there is no perversity in the findings in respect to the Issue No.7 which has been held by the learned Trial Court. However, the Issues which were decided being Issue No.3 and Issue No.4 totally not relevant, the observations so made by the learned Trial Court in the said suit has to be therefore disregarded.

5. Accordingly, this Court finds no ground to interfere with the findings as regards the Issue No.7 for which the instant petition stands dismissed. However, this Court for the purpose of clarity makes it clear that the observations so made in respect to Issue Nos.3 & 4 by the learned Trial Court shall not bar or disentitle the plaintiff to file a regular suit for recovery of possession, if so entitled under the law.

6. LCR be returned.

JUDGE

Comparing Assistant