

GAHC010041682024



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

Case No. : RSA/62/2024

BUDHESWAR HAZARIKA
S/O LATE JUNARAM HAZARIKA
RESIDENT OF SHAKRAHI GAON, MOUZA NARAYANPUR, DIST
LAKHIMPUR, ASSAM

VERSUS

DINANATH HAZARIKA
S/O LATE JUNARAM HAZARIKA
RESIDENT OF SHAKRAHI GAON, MOUZA NARAYANPUR, DIST
LAKHIMPUR, ASSAM

Advocate for the Petitioner : MR N N UPADHYAYA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

12.06.2024

Heard Shri NN Upadhyaya, learned counsel for the appellant, who has preferred this appeal under Section 100 of the Code of Civil Procedure, 1908

against a judgment dated 14.12.2023 and decree dated 22.12.2023 passed by the learned Additional District Judge (FTC), Lakhimpur, North Lakhimpur in Title Appeal No. 05/2019. By the impugned judgment, the First Appellate Court had confirmed the judgment dated 06.08.2019 and decree dated 19.08.2019 passed by the learned Civil Judge, Lakhimpur, North Lakhimpur in T.S. No. 10/2017.

2. The learned counsel for the appellant has submitted that in the said suit, the present appellant was the defendant which was instituted for declaration of right, title and interest and recovery of possession. It is submitted that the aforesaid relief was sought for on the basis of an order dated 16.02.2016 passed by the learned Circle Officer by which the land in question was partitioned in favour of the plaintiff. It is submitted that in the said proceeding before the learned Circle Officer, no notice was issued to the appellant or the other siblings.

3. The learned counsel has accordingly proposed certain substantial question of law.

4. This Court has however noticed that the proposed substantial question of law is on the aspect of partition which is not even the subject matter of the suit. This Court has also noticed that there was no counter claim by the appellant as defendant with regard to the separate patta that was issued in favour of the plaintiff.

5. The findings under consideration being concurrent findings and the substantial question of law sought to be proposed by the appellant not being connected with the subject matter of dispute which was adjudicated by the Courts below, this Court is of the considered opinion that there is no substantial question of law to be decided by this Court in exercise of its powers under

Section 100 of the CPC.

6. Accordingly, the appeal is accordingly dismissed.

JUDGE

Comparing Assistant