

GAHC010121532016



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

Case No. : SAO/10/2016

NURUL ISLAM SK and 2 ORS,
S/O LT. GOGAN BEPARI

2: MUSSTT. SURUTON BEWA
W/O. LT. DINERUDDIN SK

3: MUSSTT. MONOWARA KHATUN
W/O. LT. ABDUR RAHMAN. ALL OF VILLAGE- BHIMPARA
P.O. HATSINGINARI
P.S. SOUTH SALMARA
DISTRICT- DHUBRI
ASSAM
PIN-78313

VERSUS

ON THE DEATH OF ABDUL KHALEQUE HIS LEGAL HEIRS ABDUS SUKUR
ALI AHMED and ORS,
VILL-CHATIAPAR, RAVATARI, (MATIFATA NEAR SARJOMONI BAZAR,
FAKIRGANJ), DIST. DHUBRI

2:MUSSTT. NURBHANU KHATUN

3:MUSSTT. JAHANARA KHATUN

4:SRI ABDUL KALAM AZAD

5:MUSSTT. KHALIDAZIA.
NO. 1 WIFE
2 and 3 SONS
3

4 and 6 DAUGHTERS AND ALL ARE RESIDENT OF VILLAGE- CHATIAPAR
RAVATARI
MATIFATA NEAR SARJOMONI BAZAR
FAKIRAGANJ
DISTRICT- DHUBRI ASSAM
PIN-783137.

6:MD. SAYED HUSSAIN
S/O. LT. MAHMUD ALI
VILLAGE- FULERCHAR
P.O. FULERCHAR
P.S. SOUTH SALMARA
DISTRICT- DHUBRI ASSAM
PIN- 78313

Advocate for the appellants : Mr. D Nandi

Advocate for the respondents : Mr. A Mobaraque for
respondent Nos.1 to 5

B E F O R E

HON'BLE MR. JUSTICE DEVASHIS BARUAH

JUDGMENT & ORDER (ORAL)

20.06.2024

This is an appeal filed under Order XLIII Rule 1(u) of the Code of Civil Procedure, 1908 (for short, the Code) challenging the judgment dated 08.09.2015 passed in Title Appeal No.30/2012 whereby the learned First Appellate Court i.e. the Court of the learned Civil Judge, Dhubri having found that the learned Trial Court had not correctly framed many of the vital issues and framed additional issues and in view of the fact that additional issues were

framed it may require adducing of fresh evidences, remanded the suit back to the learned Trial Court thereby directing the parties to appear on 12.10.2015.

2. This Court has duly perused the judgment dated 08.09.2015 and perusal of the said judgment and also the pleadings exchanged between the parties is of the opinion that the impugned order by which the suit was remanded on the ground that the vital issues having not been framed does not call for any interference. More so, taking into account that the additional issues which have been framed do not touch upon the issues which were framed by the learned Trial Court.

3. Considering the above, this Court dismisses the instant appeal.

4. The parties, who are duly represented before this Court are directed to appear before the learned Trial Court i.e. the Court of the learned Munsiff No.1, Dhubri on 24.07.2024.

5. The learned Munsiff No.1.Dhubri shall decide the said suit being Title Suit No.79/2005 in terms with the directions so passed by the learned First Appellate Court dated 08.09.2015.

6. Mr. D Nandi, the learned counsel appearing on behalf of the appellants submits that taking into account that the suit land being at Mankachar, the Court of the learned Munsiff at Hatsingimari shall have the jurisdiction to decide the said suit.

7. The said aspect of the matter may be duly brought to the attention of the learned Munsiff No.1 Dhubri who shall be at liberty to pass appropriate order(s).

8. It has also been brought to the notice of this Court that the Appellate No.2 had expired in the meantime. The appellants would be at liberty to file appropriate application before the learned Trial Court, if so advised.

9. The Registry shall forthwith return the LCR to the learned Trial Court i.e. the Court of the learned Munsiff No.1, Dhubri, so that on the next date fixed by this Court, the records are made available before the Court below. In that regard, the Registry may also employ the services of a *special messenger*.

10. With the above, the instant appeal stands disposed of.

JUDGE

Comparing Assistant