

GAHC010259462014



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

Case No. : CRP(IO)/68/2014

MONIKANTA PEGU
S/O SRI KOBPA PEGU R/O VILL- GARCHIGA MOUZA- NAOBOICHA, P.S.
NORTH LAKHIMPUR DIST. LAKHIMPUR, ASSAM.

VERSUS

LAKHINATH PAYENG and 4 ORS
S/O LT. PANIRAM PAYENG

2:SRI GANDAR PAYENG
S/O LT. PANIRAM PAYENG BOTH ARE RESIDENT OF VILL- GARCHIGA
MOUZA- NAOBOICHA
P.S.NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM.

3:MD. ABJAL FAKIR
PRESIDENT
GARCHIGA NATIONAL HIGH SCHOOL

4:MD. ABU SAYED
SECRETARY
GARCHIGA NATIONAL HIGH SCHOOL

5:SRI ROGHUNATH DOLEY
S/OLT. GENDRA DOLEY ALL ARE RESIDENT OF VILL- GARCHIGA MOUZA-
NAOBOICHA
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM

Advocate for the petitioner(s): Mr. G Baishya

Advocate for the respondent(s): Mr. R Sarma

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

13.05.2024

This is an application under Section 115 of the Code of Civil Procedure, 1908 (for short, the Code), challenging the order dated 23.04.2014 passed in Title Suit No.38/2013 whereby the application filed for rejection of the plaint was rejected.

2. This Court has perused the plaint and from a perusal of the plaint, the plaintiff has sought for a decree for eviction of the defendants from the suit land and for delivery of khas possession from the plaintiffs.

3. The suit is based on title and as such the period of limitation would be in terms with Article 65 of the Schedule to the Limitation Act which stipulates 12 years in a circumstance the defendant alleges adverse possession. It is also relevant to take note of that the suit based on title does not have a period of limitation. It is only when the defendant claims adverse possession, the period of limitation is 12 years. The question of claiming adverse possession is a question of fact which the defendant has to plead and prove.

4. Under such circumstances, in the opinion of this Court, the learned Trial Court was justified in rejecting the said application vide the impugned order. Accordingly, the instant petition stands dismissed with a costs quantified @Rs.10,000/- upon the petitioner/defendant to be deposited before the learned Trial Court on the next date as this Court so fixes.
5. The interim order dated 12.09.2014 stands vacated and the parties are directed to appear before the learned Trial Court on 14.06.2024.
6. With the above, the revision petition stands disposed of.

JUDGE

Comparing Assistant