GAHC010205672017

2026:GAU-AS:17199

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

Case No. : RSA/391/2017

MAKHANLAL CHANDA and 2 ORS,
S/O LATE MAHENDRA KUMAR CHANDA

2: MRINAL KANTI CHANDA

3: MRIDUL KANTI CHANDA

BOTH ARE SONS OF SRI MAKHANLAL CHANDA AND ALL ARE R/O VILL. PAIKAN
P.O. HAILAKANDI
P.S. and DIST. HAILAKANDI

VERSUS

SMI SHIBANI CHANDA
W/O SRI KOUSHIK CHANDA, R/O VILL. SANTINAGAR, P.O. CHOTO DUDPATI, P.S. SILCHAR, DIST. CACHAR, ASSAM.

Advocate for the Petitioner : MS. K KALITA, MS. A CHAKRABORTY,MR. P DAIMARY,MR. B K BHAGAWATI,MR. P S DEKA

Advocate for the Respondent : MR. S K GHOSH, MS F AHMED

:: BEFORE ::

(HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA)

Advocate(s) for the Appellants : Mr. B.K. Bhagawati.

Advocate(s) for the Respondent: Mr. S.K. Ghosh.

Date on which judgment is reserved: 12.11.2026.

Date of pronouncement of judgment: 20.11.2026.

Whether the pronouncement is of the operative part of the judgment? : YES.

Whether the full judgment has been pronounced? : YES.

JUDGMENT AND ORDER (CAV)

Heard Mr. B.K. Bhagawati, learned counsel appearing for the appellants. Also heard Mr. S.K. Ghosh, learned counsel representing the sole respondent.

2. This is a Regular Second Appeal under Section 100 of the Civil Procedure Code (CPC) whereby the judgment dated 08.06.2017 and the decree dated 17.06.2017 passed by the learned Civil Judge, Hailakandi in Title Appeal No.04/2016 affirming the judgment and decree dated 29.03.2016 passed by the learned Munsiff No.1, Hailakandi in Title Suit No.82/2012 is under challenge.

3. Late Mohendra Chanda had two wives, namely- Smti. Manda and Smti. Chanchala. Smti. Manda had 3 sons and 6 daughters. The sons are the present appellant Makhanlal Chanda, late Monindra Chanda and late Monoranjan Chanda. The daughters are- Monolata, Snehalata, Charu, Preeti, Maya and Monoroma.

4. The respondent Shibani Chanda is the daughter of Monindra Chanda and she has been residing in the given address since her marriage. It is her matrimonial home.

5. Earlier, her parents were residing together with the appellant Makhanlal Chanda along with his two sons. After some time, they had separated having separate kitchens.

6. The daughters Monolata, Snehalata, Charu, Preeti, Maya and Monoroma had instituted a suit being T.S. 71/2015 seeking partition of their parental property.

7. After the death of Smti. Manda, her daughter i.e. Smti. Shibani Chanda used to occasionally visit her ancestral home to take care of her father Monindra Chanda.

8. It is alleged that Makhanlal Chanda and his 2 sons used to pressurize Monindra Chanda to hand over some lands. Monindra Chanda even took the help of police. In the meantime, Monindra Chanda

had died.

9. The appellants informed Shibani Chanda that her father had already already sold his share comprising of 5 bighas of land to them on taking ₹100,000/-. Smti. Shibani Chanda procured the certified copy of the sale deed and she found that nobody identified the seller. She also found that one person, namely- Motiur Rahman Laskar is shown as a witness who is actually an employee of Makhanlal Chanda. According to Shibani Chanda, her father was a literate person and used to put signatures on documents. According to Shibani Chanda, her father would not sell such a big property for such a small price.

10. Narrating the aforesaid facts, Shibani Chanda filed the suit praying for cancellation of the said sale deed.

11. The trial court framed an issue as to whether the Sale Deed No.3938 dated 17.12.2011 is a forged document created by the present appellants?

12. On the basis of the evidence on record, the trial court held the said sale deed to be a forged document.

13. Makhanlal Chanda and his 2 sons filed the Regular First Appeal being Title Appeal No.04/2016 challenging the findings of the learned Munsiff No.1, Hailakandi in T.S. 82/2012. The appellate court agreed with the findings of the trial court.

14. The present second appeal has been admitted for hearing upon the following substantial question law:

> "Whether findings of the learned court below holding the sale deed Ext.A/1 to be forged document, was perverse and illegal?"

15. I have considered the submissions made by the learned counsels of both sides.

16. In case of concurrent findings, in *G. Mahalingappa v. G.M. Savitha*, (2005) 6 SCC 441, the Supreme Court has held as under:

> "25. Let us now consider whether the concurrent findings of fact could be set aside by the High Court in the second appeal. It is well settled by diverse decisions of this Court that the High Court in the second appeal is entitled to interfere with the concurrent findings of fact if the said concurrent findings of fact are based on non-consideration of an important piece of evidence in the nature of admission of one of the party to the suit, which is overlooked by the two courts below. (See *Deva* v. *Sajjan Kumar* [(2003) 7 SCC 481] .) It is equally well settled that under Section 100 of the Code of Civil Procedure, the High Court cannot interfere with the concurrent findings of facts of the courts below without insufficient and just reasons. (See *Sayeda Akhtar* v. *Abdul Ahad* [(2003) 7 SCC 52] .) In the second appeal, the High Court is also not entitled to set aside the concurrent findings of fact by giving its own findings contrary to the evidence on record. (See *Saraswathi* v. *S. Ganapathy* [(2001) 4 SCC 694] .)"

17. The question whether the sale deed is a forged document, is a factual issue and on the basis of the evidence on record, the trial court has held the sale deed to be a forged one. The so called substantial question of law is not a question of law rather it is a question of fact and being the second appellate court, this Court is not entitled to embark upon reappreciation of evidence on record. It is a settled

position of law that the High Court in the second appeal is entitled to interfere with the concurrent findings of fact if the said concurrent findings of fact are based on non-consideration of an important piece of evidence in the nature of admission of one of the party to the suit, which is overlooked by the two courts below. In the case in hand, there is nothing like admission of party overlooked by the trial court. The opinion of the trial court is totally based on evidence adduced by the parties.

18. Under the given circumstances, this Court finds itself foreclosed against all options but to hold that this appeal is devoid of merit. Hence, the appeal is dismissed and disposed of accordingly.

The trial court records shall be returned.

JUDGE

Comparing Assistant