

FORM NO. (J) 3

HEADING OF JUDGMENT ON APPEAL.

District :- Bongaigaon.

IN THE COURT OF CIVIL JUDGE, BONGAIGAON.

Present :- Sri S. Das.
Civil Judge,
Bongaigaon.

Tuesday, the 4th day of June, 2013.

Title Appeal No. 16 of 2012.

from the Judgment & Decree dated...12.4.2012 and 19.5.2012..of....
Munsiff of Bongaigaon and made in
Title Suit No.39 of 2011.

1. Sri Nikesh Kumar Brahma Appellant

VERSUS

1. Sri Aswini Kumar Brahma and 2 others Respondents

The appeal coming on thisday or having been heard on
(Give date or dates) 13.5.2013.

In the presence of -

Mr. H. Karmakar

Advocate for Appellant

Mr. M. Islam

Advocate for Respondent no.1 and 2

Mr K. Sarkar

Advocate for Respondent no.3

And having stood for consideration to this 4th day of June, 2013, the
Court delivered the following Judgment :-

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Su 16/2013
Civil Judge,
Bongaigaon.

:::::: J U D G M E N T :::::

1. This Title Appeal is directed against the order dated 12.4.2012 and 19.5.2012 passed in T.S. No. 39/2011 by learned Munsiff, Bongaigaon dismissing the suit of the plaintiff on default and also rejecting the petition no. 556/2012 dated 19.4.2012.

2. The facts giving rise to this appeal is that the appellant filed T.S. No.39/2011 against the defendants for declaration of right, title interest and for khas possession. During the trial the plaintiff on the relevant dates at the stage of issue and documents did not make appearance and accordingly the suit was dismissed for default. The plaintiff also filed petition no. 556/12 before the learned Munsiff for setting aside the order of dismissal dated 12.4.2012. However, the learned Munsiff after hearing both the parties dismissed the petition. Hence, this suit.

3. Being highly aggrieved the plaintiff-appellant filed this appeal under order 43 rule 1 of CPC. In the memo of appeal the plaintiff-appellant stated that the learned court committed grave error and illegality in passing the impugned order ; that the learned trial court failed to appreciate the facts and circumstances on record as stated in the petition no.556/12 ; that the learned Munsiff did not exercise its judicial mind etc.

My decision is given as below

4. The learned counsel for the appellant side submitted that the learned court below ought to have considered the petition no. 556/12 for restoration of the T.S. No. 39/2011 which was dismissed for default. The learned counsel for the appellant also submitted that the appellant shall

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fu/6/2013
Civil Judge,
Bongaigaon.

