

FORM NO. (J) 3

HEADING OF JUDGMENT ON APPEAL

District: Bongaigaon

IN THE COURT OF THE CIVIL JUDGE, BONGAIGAON

Present: Sri S. Das

Civil Judge, Bongaigaon

Monday the 24th day of January, 2014.

Title Appeal No. 9 /2010

From the Judgment Decree of 22.12.2009

Munsiff of North Salmara, Abhayapuri and made in

Title Suit No. 7 of 2001

1. Md. Gajibar Rahman & Another Appellant

VERSUS

2. Md. Shomser Ali & Another. Respondent

The appeal coming on this 24th day of January having been heard on 15.12.2013

In the presence of

Mr. Samir Sarkar Advocate for Appellant.

Mr. Niloy Kanti Ghosh Advocate for Respondent.

And having stood for consideration to this 27th day of January 2014, the Court delivered the following Judgment.

Contd.....

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Civil Judge,
Bongaigaon.

JUDGMENT

1. This Title Appeal has been preferred against the Judgment and Decree dated 22.12.09 passed by learned Munsiff, North Salmara, Abhayapuri in Title Suit No.7/2001.
2. The facts giving rise to this appeal are as follows:

The plaintiff filed the suit T.S 7/2001 for right, title, interest, khas possession and for a declaration that Power of Attorney No.465 dtd 10.7.89 is fraudulent and collusive and does not confer any right, title and interest over the suit land.

CASE OF THE PLAINTIFF:

The plaintiffs case in brief is that the plaintiffs and their elder brother late Sahar Ali were the owners and possessors of the S/L measuring 2Bigha, situated at village Kabaitari part-IV under Jogighopa P.S., which was purchased by them vide registered sale deed No. 4160 dated 28.12.83, and got the possession of the same since the date of purchase. In the last week of June 1989 late Sahar Ali took the signatures of the plaintiffs upon some blank stamp papers telling them that it is necessary for making an application to the A.S.O Office Boitamari Circle for mutating their name in the records of rights in respect of the suit land. Accordingly on good faith the plaintiffs put their signatures on blank stamp paper. Subsequently late Sahar Ali had mortgaged the S/L to the defendants for a sum of Rs 6000/- (Six Thousand). When the plaintiffs came to know about this, late Sahar Ali assured them that he would repay the mortgage money and redeem the suit land. In the year 1990 Sahar Ali committed suicide without paying the mortgage money and without redeeming the said suit land, leaving behind pro forma defendant No. 1 to 4 as his legal heirs. Pro forma defendant No. 1 also could not repay the mortgage money and she got separated from the family. The defendants started helping the pro forma defendants and they took the side of the defendants. Later on the defendant No 1 filed a mutation case No. 19/2000 claiming that he purchased the

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