

TITLE SUIT NO:06 OF 2011  
PLAINTIFF: SMTI NURJAHAN BEWA & ORS  
DEFENDANTS: SHRI SOLEMAN SK & ORS

**Form no. (J) 2**

Heading of judgment in original suit/ case

**In the original court of the Civil Judge, Dhubri**

Present: Yusuf Azaz

Thursday, the 3<sup>rd</sup> Day of January, 2017

TITLE SUIT NO.06/ 2011

- 1) SMTI NURJAHAN BEWA
- 2) SHRI NUR ALOM SK
- 3) SMTI SHEFALI BEGUM
- 4) SHRI SAMIUL HOQUE

Plaintiffs

*versus*

- 1) SHRI SOLEMAN SK
- 2) SHRI MOFIAR RAHMAN
- 3) SHRI SAFIAR RAHMAN
- 4) SHRI SOKIBAR RAHMAN
- 5) SMTI JELEKHA KHATUN
- 6) SMTI MALEKA KHATUN
- 7) SMTI MAFUDA KHATUN
- 8) SMTI MAHMUDA KHATUN
- 9) SMTI ASIA BEA
- 10) SHRI AYUB SK
- 11) SHRI HANIF SK
- 12) SHRI HAFIJUR SK
- 13) SHRI ARIF SK
- 14) SMTI RUPALI KHATUN
- 15) SMTI RUBIDA KHATUN
- 16) SMTI ROZENA KHATUN
- 17) DR. ZILLUR RAHMAN
- 18) SHRI AINUL ISLAM MONDAL
- 19) SHRI MOKSED ALI
- 20) SHRI NIRAJUL HOQUE SARKAR

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- 21) SMTI ROMISA KHATUN
- 22) SMTI MOMTAJ BEGUM
- 23) SMTI JESMIN AHMED
- 24) ZIAUR RAHMAN
- 25) THE SUB- REGISTRAR, HATSINGHIMARI
- 26) THE ASSISTANT SETTLEMENT OFFICER, MANKACHAR
- 27) THE STATE OF ASSAM

Defendant/s

This suit/ case coming on for final hearing on 22/11/2016 in the presence of –

SHRI A. R AHMED, Advocate for the plaintiff; and

SHRI A.K PAUL, Advocate for the defendants,

and having stood for consideration to this day, the court delivered the following judgment-

### **JUDGMENT**

1. The plaintiffs have instituted this suit against the defendants praying for the declaration of their right, title and interest over the suit land and for cancellation of power of attorney and sale deeds and some other reliefs.
2. The brief facts leading to this case, as is revealed from the plaint, is that:
3. The plaintiffs have pleaded that their predecessor, Khalilur Rahman and Abdul Jalil and Khoimuddin Sk were brothers (all are dead), however Khalilur Rahman used to own and possess a plot of land measuring about 1 Bigha 2 Katha 10 Lessas. The plaintiffs have pleaded that they are the legal heirs and successors of Khalilur Rahman and according to them, their father, Khalilur Rahman had purchased the above referred suit land measuring 1 Bigha 2 Katha 10 Lessas covered by Dag no: 38/ 226 of Khatian no: 34 situated at village- Bhimpara from the original owners

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namely, Chan Mia and Lal Mia by way of registered sale deed no:171 dated 19/12/1974 and separately possessed the same. The plaintiffs have pleaded that the above referred suit land was the sole property of their predecessor, Khalilur Rahman and that his other two brothers namely, Abdul Jalil and Khoimuddin Sk had no right, title or interest over the suit land. The plaintiffs have stated that the defendant no:1 to 8 are the legal heirs and successors of Abdul Jalil and the defendant no:9 to 16 are the legal heirs and successors of Khoimuddin Sk. The plaintiffs further pleaded that the suit land is their joint property and the same is not yet partitioned amongst themselves, i.e the legal heirs and successors of Khalilur Rahman, however during the settlement operation the suit land is recorded only in the name of the plaintiff no:2 and 4, even though all the plaintiffs are the co-owners. According to the plaintiffs, sometime during the first week of June, 2009, the defendant no:21 to 24 came to the suit land alongwith the defendant no:17 and 18 and they trespassed into the suit land and dispossessed the plaintiffs from the suit land and erected fencing over the suit land by dividing the suit land in four parts. The plaintiffs thereafter made inquiries and came to know that a forged power of attorney exists which shows that Abdul Jalil and Khoimuddin alongwith the plaintiff no:2 for himself and acting as guardian of the plaintiff no:4 had executed the said power of attorney whereby the defendant no:17 and 18 namely, Dr. Zillur Rahman and Ainul Islam Mondal were authorized by them to sell the suit land. The plaintiffs have pleaded that they never executed any such power of attorney and moreover, Abdul Jalil and Khoimuddin had no right, title and interest over the suit land; hence they could not have executed any such power of attorney in respect of the suit land. The plaintiffs further pleaded that they also came to know that the defendant no:18 had executed gift deed no:406

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in favour of defendant no:21 and similarly the defendant no:17 executed three registered sale deed being sale deed nos: 404, 405 and 407 in favour of the defendant no:22 to 24 in respect of the suit land and on the basis of the aforesaid four sale deeds, the defendant no:21 to 24 are claiming their right, title and interest over the suit land and had dispossessed the plaintiffs from the suit land. The plaintiffs further pleaded that the revenue authorities had also granted mutation in favour of the defendant no:21 to 24 on the basis of the aforesaid four deeds and the objections raised by the plaintiffs were summarily dismissed; hence this suit praying for the declaration of the right, title and interest of the plaintiffs over the suit land and for cancellation of the aforesaid sale deeds and the power of attorney and also for cancellation of the mutation and other reliefs.

4. The defendant no:1 to 18 and 21 to 24 filed their joint written statement stating therein that the suit land originally belonged to the three brothers namely, Khalilur Rahman, Abdul Jalil and Khiomuddin Sk even though the aforesaid land was purchased only in the name of one of the brothers, i.e Khalilur Rahman and as such the other two brothers had equal right over the suit land measuring 1 Bigha 2 Katha 10 Lessas. The abovenamed defendants further pleaded that during the lifetime of Khalilur Rahman, he had proposed to sell the suit land to the defendant no:17, Dr. Zillur Rahman and the defendant no:18, Shri Ainul Islam, but the Government had imposed a ban on the transfer and registration of sale deeds in respect of Village- Bhimpara where the suit land is situated and during such period of ban, Khalilur Rahman died. Thereafter the major son of Khalilur Rahman namely, Nur Alom for himself and acting as the guardian of his minor brother, Samiul Hoque executed a sale agreement in favour of Dr. Zillur Rahman and Ainul Islam and later on he alongwith Abdul Jalil and

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Khiomuddin Sk executed the power of attorney in favour of Dr. Zillur Rahman and Ainul Islam and delivered the possession of the suit land to them and they are in occupation of the same since the last about more than 18 years. Thereafter the Government lifted the prohibition on sale in the year 2009 and as such the defendant no:17 and 18 executed the impugned deeds in favour of the defendant nos:21 to 24 and transferred the suit land in their favour and also delivered possession of the suit land to the defendant no:21 to 24 and since then they are in possession of the suit land; hence prayed for dismissal of the suit.

5. The defendant no:19, 20, 25, 26 and 27 did not contest the suit by filing written statement and as such the suit proceeded ex-parte against them.
6. Upon the pleadings of the parties, the following issues were framed in this suit-

***(1) Whether the suit is maintainable?***

***(2) Whether there is any cause of action for the suit?***

***(3) Whether the plaintiffs have right, title, interest over the suit land?***

***(4) Whether the power of attorney deed no:IV-73 dated 8/10/1991, sale deeds no:404, 405, 407 and gift deed no:406 dated 13/4/2009 are fraudulent, void, illegal and not binding upon the plaintiffs and liable to be cancelled?***

***(5) Whether the defendant no:21 to 24 acquired any right, title, interest over the suit land and whether mutation***

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***orders passed in mutation cases no:140/ 09, 141/ 09, 142/ 09 and 143/ 09 are liable to be set aside?***

***(6) Whether the plaintiffs are entitled to khas possession of the suit land by evicting the defendant no:21 to 24, their agents, successors and representatives and by demolishing all structures raised thereon by them?***

***(7) To what reliefs, if any, the parties are entitled?***

7. I have heard the arguments put forwarded by both the parties. Both the parties have adduced evidence in support of their respective case.
8. Let me discuss the evidence on record and try to arrive at a definite finding as regards the issues framed.

**DISCUSSION, DECISION, AND REASONS FOR THE DECISION**

***ISSUE NO.1 & 2: Whether the suit is maintainable?// Whether there is any cause of action for the suit?***

9. The brief facts of the case of the plaintiffs is narrated above and it is seen that the plaintiffs are claiming their right, title and interest over the suit land on the basis of succession. The plaintiffs have alleged that their predecessor, Khalilur Rahman owned the suit land and after his death, the plaintiffs inherited the suit land, but the defendant no:17 and 18 have transferred the same to the defendant no:21 to 24 without having any transferrable right over the suit land. It is seen that the pleadings disclose a cause of action because if the plaintiff is able to prove the above facts then he would be entitled to a decree in this suit. In view of the above

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discussions it is held that the plaintiffs have a cause of action for this suit.

10. The defendants contended that the suit is not maintainable but the defendants failed to specifically state as to why the suit is not maintainable. I have perused the record and it does not appear to me that the suit is not maintainable. In fact the dispute disclosed in this suit is of civil nature and as such this Court had jurisdiction to try the suit; as such it is held that the suit is maintainable.

11. DECISION: The issue no:1 and 2 are answered in the affirmative and in favour of the plaintiffs.

**ISSUE NO.3,4,5 and 6:**

12. All the above referred four issues are taken together for discussion as they are intricately connected to each other and decision in one issue would affect the other issues.

13. The plaintiffs have alleged that the suit land originally belonged to Khalilur Rahman, who happens to be the husband of the plaintiff no:1 and the father of the plaintiff no:2 to 4. The plaintiffs have pleaded that their predecessor, Khalilur Rahman had purchased the suit land from one Chan Mia and Lal Mia vide registered sale deed no: 171 dated 19/12/1974. On the contrary the defendants contended that the suit land was purchased in the name of Khalilur Rahman alone, however his two brothers namely, Abdul Jalil and Khiomuddin Sk had right, title and interest over the same.

14. In this regard I would like to point out that it is an admitted fact that the suit land was originally purchased only in the name of Khalilur Rahman, i.e the predecessor of the plaintiffs, but the only contention raised by the

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defendants is that the brothers of Khalilur Rahman also had right over the same; as such it is seen that the burden lie upon the defendants to prove that Abdul Jalil and Khoimuddin also had right, title and interest over the suit land, but I would like to state herein that the defendants had failed to bring on record any such material to show that the suit land was jointly purchased by Abdul Jalil and Khoimuddin alongwith Khalilur Rahman. In fact the defendants failed to examine any of the legal heirs of Abdul Jalil or Khoimuddin to prove that they had any joint right, title or interest over the suit land. On the contrary, the defendants witnesses namely, Shri Jiaur Rahman Ahmed (DW1) had specifically admitted in his cross examination that as per the revenue records only Nur Alom and Samiul, who are the sons of Khalilur Rahman are the owners of the suit land and they inherited the land from their father, Khalilur Rahman. The above statement specifically shows that the defendants admitted that the suit land solely belonged to Khalilur Rahman and after his death the same devolved upon the plaintiffs.

15. Further, the DW3, Dr. Zillur Rahman (defendant no:17) from whom the defendant no:21 to 24 are claiming title over the suit land had specifically stated in his cross examination that only Khalilur Rahman, i.e the predecessor of the plaintiff was the sole owner of the suit land and that Abdul Jalil and Khoimuddin Sk had no right over the suit land. The DW3 had specifically stated in his cross examination that Abdul Jalil and Khoimuddin Sk are not the owners of the suit land and had no right, title and interest over the suit land even though they had executed the power of attorney (exhibit C). It is specifically proved from the above admissions made by the defendants that the suit land originally belonged to Khalilur Rahman solely and that Abdul Jalil and Khoimuddin Sk had no right, title or interest over

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the same.

16. Even otherwise the plaintiffs have produced the original sale deed no:171 (Exhibit 1) by which Khailur Rahman had purchased the suit land from its original owners namely, Chan Mia and Lal Mia. The defendants had not disputed the execution of the above sale deed. In fact the defendants had admitted that Khalilur Rahman had purchased the suit land in his own name by way of the above sale deed. It is revealed from the perusal of the exhibit 1 that only Khalilur Rahman had purchased the suit land for himself and not on behalf of any other persons; as such it is held that the plaintiffs have proved that the suit land originally belonged to Khalilur Rahman and after his death the same devolved upon the plaintiffs and as such the plaintiffs had the right, title and interest over the suit land.
17. In view of the above discussions it is held that all the plaintiffs have the joint right, title and interest over the suit land; as such I am now required to determine as to whether the power of attorney in favour of the defendant no:17 and 18 is forged or the same gives transferrable right over the suit land in favour of the defendant no:17 and 18.
18. In this regard I would like to point out that the defendants had contended that the defendant no:17 and 18 initially entered into an agreement to purchase the suit land from Khalilur Rahman but he died and during those period the sale was prohibited by the Government and as such the plaintiffs executed a power of attorney in their favour which acted as a deed of transfer. The defendants have also produced a copy of the order dated 20/1/1984 (Exhibit B) whereby the registration of deeds in respect of Bhimpara village was prohibited. The defendants had contended that the defendant no:17 and 18 entered into an agreement with Khalilur Rahman to

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purchase the suit land and as he died during the meantime, the plaintiffs executed the exhibit A, which is an agreement of sale (Bainapatra). I have perused the exhibit A and it is seen that the same is an agreement of sale but no effective transfer has taken place by virtue of the exhibit A. The exhibit A is not a registered document and as such no transfer of immovable property above Rs.100/- can take place without compulsory registration. In view of the above it is held that the exhibit A cannot effect any transfer of the suit land and does not confer any right, title or interest over the suit land in favour of the defendant no:17 and 18. It is further seen from the above that the defendants had admitted that the transfer of land in the aforesaid village was prohibited; as such no effective transfer could have taken place during the aforesaid period.

19. The defendants had contended that as because transfer of suit land was prohibited, the plaintiffs executed the power of attorney and on the basis of the said power of attorney, the defendant no:17 and 18 acquired right, title and interest over the suit land and transferred the same to the defendant no:21 to 24 after the prohibition was lifted. It is seen from the above that the defendants are contending that the power of attorney was in the nature of a sale deed and that the sale was done by way of power of attorney because the registration of sale deed was prohibited during those period. In my considered opinion, the power of attorney (Exhibit C) cannot confer any right, title and interest over the suit land and cannot act as substitute for sale deed. In fact such practice of transferring immovable property by way of power of attorney was held to be illegal by the Hon'ble Supreme Court of India in the case of **Suraj Lamp and Industries Vs State of Haryana [(2012) 1 SCC 656]**. The Hon'ble Apex Court had in the above referred judgment held that:

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***We therefore reiterate that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of "GPA sales" or "SA/GPA/will transfers" do not convey title and do not amount to transfer, nor can they be recognised or valid mode of transfer of immovable property. The courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in an immovable property. They cannot be recognised as deeds of title, except to the limited extent of Section 53-A of the TP Act. Such transactions cannot be relied upon or made the basis for mutations in municipal or revenue records. What is stated above will apply not only to deeds of conveyance in regard to freehold property but also to transfer of leasehold property. A lease can be validly transferred only under a registered assignment of lease. It is time that an end is put to the pernicious practice of SA/GPA/will transactions known as GPA sales.***

20. It is seen from the above that such type of conveyance by power of attorneys are held to be illegal by the Hon'ble Supreme Court of India and as such it is held that no right, title or interest is conferred upon the defendant no:17 and 18 on the basis of the aforesaid power of attorney (Exhibit C), even if it is held that the aforesaid power of attorney (Exhibit C) is validly executed.

21. Further, the execution of the exhibit C is denied by the plaintiffs and the plaintiffs have alleged that the same is a forged document; as such the burden lie upon the defendants to prove the due execution of the exhibit C,

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however, the perusal of the materials on record show that the defendants have miserably failed to prove the due execution of the exhibit C. In fact the defendants had failed to produce the original exhibit C; as such it cannot be held that the exhibit C was duly executed by the plaintiffs. The plaintiffs have contended that the plaintiff no:2, Shri Nur Alom never executed the exhibit C; as such the defendants ought to have produced the original exhibit C. The defendants have merely produced the certified copy of the power of attorney (Exhibit C) and on the basis of the certified copy they cross examined the plaintiff no:2, Shri Nur Alom (PW4) who denied executing the same. The PW4 (Shri Nur Alom) had specifically stated in his cross examination that he never executed the power of attorney (Exhibit C). In fact the perusal of evidence of the defendants reveals that none of the witnesses examined by the defendants actually deposed as regards the execution of the aforesaid power of attorney. The defendants examined Shri Jiaur Rahman (DW1) and Dr. Zillur Rahman (DW3) ***[it would be pertinent to mention herein that the DW2 was not produced by the defendants for cross examination as such his examination in chief was taken off the record]*** but none of these two witnesses have identified the signature of the Shri Nur Alom and none of these witnesses have deposed that they were actually present when the plaintiff no:2 actually signed upon the said power of attorney as such it is held that the defendants have failed to prove that the power of attorney (Exhibit C) was executed by the plaintiff no:2.

22. Even if it is held for the sake of argument that the power of attorney was executed by the plaintiff no:2, Shri Nur Alom, then also the aforesaid power of attorney (Exhibit C) cannot legally authorize the defendant no:17 and 18 to act on behalf of all the plaintiffs because the aforesaid power of attorney

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is allegedly executed by only the plaintiff no:2. The defendants had admitted that the suit land belonged jointly to all the plaintiffs and that all the plaintiffs have joint right, title and interest over the same. In fact the defendant no:17, Dr Zillur Rahman (DW3) had specifically admitted in his cross examination that the suit land belonged to all the plaintiffs jointly after the death of Khalilur Rahman and that no partition of the suit land took place amongst the co-owners; as such the plaintiff no:2 alone cannot authorize the defendant no:17 and 18 by way of power of attorney to sell the suit land. The suit land is the joint property of all the plaintiffs; hence the plaintiff no:2 alone could not have authorized by way of power of attorney to deal with the suit land; hence it is held that the power of attorney (Exhibit C) does not confer any right upon the defendant no:17 and 18.

23. The learned counsel for the defendants had further contended that the plaintiff no:4, Samiul Hoque was a minor at the time of execution of the power of attorney and as such the plaintiff no:2, being the guardian signed upon the power of attorney for himself and on behalf of the plaintiff no:2. The above contention of the defendants is not sustainable because the plaintiff no:2 cannot be a natural guardian of the plaintiff no:4 because the natural guardian of the plaintiff no:4 namely, the plaintiff no:1, Smti Nurjahan Bewa (mother) is still alive. Further, admittedly no competent Court had appointed any legal guardian of the plaintiff no:4; as such it cannot be held that the plaintiff no:2 was the guardian of the plaintiff no:4. Moreover, the suit land belonged to all the plaintiffs as already stated above, as such only the plaintiff no:2 could not have authorized the defendant no:17 and 18 to sell the suit land on behalf of himself and all the other plaintiffs; as such it is held that the power of attorney (Exhibit C) did

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not authorize the defendant no:17 and 18 to sell the suit land on behalf of all the plaintiffs.

24. In view of the above discussions it is held that the defendants have failed to prove that the power of attorney (Exhibit C) was executed by the plaintiff no:2 and even if it is held that the plaintiff no:2 executed the power of attorney (Exhibit C), then also it is held that the same could not have conferred any right or authorized the defendant no:17 and 18 to deal with and sell the suit land on behalf of all the owners, i.e all the plaintiffs; as such it is further held that the defendant no:17 and 18 could not have transferred the suit land by way of deed no:404, 405, 406 and 407 in favour of the defendant no:21 to 24 on the basis of the power of attorney.

25. It is, therefore, held that the power of attorney no:IV- 73 (exhibit C) and the deed no:404, 405, 406 and 407 are null void and inoperative in law and is not binding upon the plaintiffs and it does not affect the suit land. It is further held that the defendant no:21 to 24 does not have any right, title and interest over the suit land because the defendant no:17 and 18 had no transferrable right over the suit land and thus the mutation of their names in the revenue records is illegal.

26. The learned counsel for the defendants had contended that the defendant no:21 to 24 are admittedly in occupation of the suit land by constructing their residential houses; as such it ought to be held that they have the right, title and interest over the suit land and they are not liable to be evicted. The above contention of the defendants is not sustainable because mere occupation, how long so ever cannot confer any right, title or interest over immovable property. In the instant case at hand, it is already held that the plaintiffs have the right, title and interest over the suit land and it is further

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held that the defendant no:21 to 24 do not have any right, title and interest over the suit land; as such it is held that the defendant no:21 to 24 are liable to be evicted from the suit land.

27. The learned counsel for the defendants had further contended that the defendants are in occupation of the suit land since the last many years and the defendants have also produced house tax receipts and BSNL notice **(Exhibit J(1) to (6) & L)** as such it ought to be held that the defendant no:21 to 24 have the right, title and interest over the suit land. The above contention of the defendants is not sustainable because the house tax payment receipts or electricity connection cannot confer any right, title or interest over the suit land and merely because the defendants are paying house tax receipts, the same would not give them any immunity from eviction sought by the true owners of the suit land.

28. The learned counsel for the defendants had contended that the plaintiffs did not come to Court with clean hands and as such no equitable relief could be granted to the plaintiffs. The learned counsel for the defendants had relied upon the judgment of the Hon'ble Apex Court in the case of **Arunima Baruah Vs Union of India [(2007) 6 SCC 120]** wherein the Hon'ble Apex Court had held that he who comes into equity must come with clean hands. In my considered opinion the law laid down by the Hon'ble Apex Court is not applicable to the facts of this case because the plaintiffs did not seek for any equitable rights in this case but the plaintiffs have sought for the enforcement of their legal right to property. Moreover, there is nothing on record to show that the plaintiffs have suppressed any material facts or had practiced anything unequitable.

29. The learned counsel for the defendants had further contended that the

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plaintiff no:2 and 4 have sold a portion of the suit land in the year 2009 to Shefali Begum vide exhibit M and N and as such the plaintiffs are doing the same thing what the defendants had done. In my considered opinion, the above two sale deeds are not material in this case because the plaintiffs have right, title and interest over the suit land and as such they are empowered to sell the suit land to any other person, but the defendants could not derive any right over the suit land merely because the plaintiff no:2 and 4 have sold any portion of the suit land. Further, the defendants have not produced the original of the exhibit M and N and as such the certified copies are not admissible in evidence because the plaintiffs have not admitted to any such sale.

30. The learned counsel for the defendants had further relied upon the judgment of the Hon'ble Apex Court in the case of **Madan Mohan Singh Vs Rajni Kant [(2010) 9 SCC 209]** to show that the authenticity of the certificate has to be proved to prove date of birth. The learned counsel for the defendants had contended that the plaintiffs have produced the date of birth certificate (Exhibit 2) of the plaintiff no:2 to show that the plaintiff no:2, Shri Nur Alom was minor at the time of execution of the power of attorney (Exhibit C), but the same is not proved in accordance with law. In this regard I would like to submit that I had already discussed and held that the defendants failed to prove that the plaintiff no:2 had executed the power of attorney and even if it is held that the plaintiff no:2 had executed the power of attorney, then also the same would not bind the other plaintiffs hence the defendant no:17 and 18 could not have transferred the suit land on the basis of the exhibit C; as such the date of birth of the plaintiff no:2 is not material in the facts and circumstances of this case.

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31. In view of the above discussions it is held that the plaintiffs have the right, title and interest over the suit land and it is further held that the power of attorney (Exhibit C) and the deed no:404, 405, 406 and 407 are not binding upon the plaintiffs and the same do not confer any right, title or interest in favour of the defendant no:17, 18 and the defendant no:21 to 24 and thus the same are not binding upon the plaintiffs and it is further held that the defendant no:21 to 24 are liable to be evicted from the suit land and consequently all the issue no:3,4,5 and 6 are answered in favour of the plaintiffs.

32. DECISION: The issue no:3,4,5 and 6 are answered in favour of the plaintiffs.

**ISSUE NO:7:**

33. In view of the discussions made above and the decisions reached in the foregoing issues, more particularly the issue no:3,4,5 and 6, it is held that the plaintiffs are entitled to the declaration that they have the right, title and interest over the suit land and it is further held that the power of attorney no:IV-73 (Exhibit C) and the deed no:404, 405, 406 and 407 (exhibit D to G) are also liable to be cancelled and declared as null, void and inoperative in law and not binding upon the plaintiffs. It is further held that the plaintiffs are entitled to recover the khas possession of the suit land by evicting the defendant no:21 to 24.

ORDER

34. In view of the above discussions and the decisions reached in the foregoing issues the suit of the plaintiffs is decreed on contest with cost. It is hereby declared that the plaintiffs have the right, title and interest over the suit

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land. It is further declared that the power of attorney no: IV- 73 (Exhibit C) and the deed no:404, 405, 406 and 407 (exhibit D to G) are liable to be cancelled and it is declared that the same are not binding upon the plaintiffs. It is further directed that the defendant no:21 to 24 do hand over the khas possession of the suit land to the plaintiffs within three months from today and upon failure to do so the plaintiffs would be at liberty to get the decree executed. The time period of three months is granted to the defendant no:21 to 24 to search for alternate accommodation. It is further held that the mutation of the names of the defendant no:21 to 24 over the suit land liable to be cancelled.

35. The suit is decreed on contest with cost.

36. Prepare decree accordingly.

Given under my hand and seal of this court on this the 3<sup>rd</sup> day of January, 2017  
at Dhubri.

Yusuf Azaz,  
Civil Judge, Dhubri.

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE SUIT NO:06 OF 2011  
PLAINTIFF: SMTI NURJAHAN BEWA & ORS  
DEFENDANTS: SHRI SOLEMAN SK & ORS

**APPENDIX**

**PLAINTIFF'S WITNESSES :**

- 1) SHRI NUR ALOM SK (ALSO NUMBERED AS PW4)
- 2) SHRI SAMIUL HOQUE
- 3) SHRI KAYED HUSSAIN

**DEFENDANT'S WITNESSES:-**

- 1) SHRI JIAUR RAHMAN AHMED
- 2) DR. ZILLUR RAHMAN AHMED

**PLAINTIFF'S EXHIBITS :-**

- 1) EXT. 1- SALE DEED NO:171/ 1974
- 2) EXT. 2 & 3- SCHOOL CERTIFICATE
- 3) EXT. 4- BIRTH CERTIFICATE
- 4) EXT. 5 TO 8- CERTIFIED COPIES OF MUTATION ORDERS
- 5) EXT. 9 TO 12- CERTIFIED COPIES OF DEED NO:404, 405, 406 AND 407

**DEFENDANT'S EXHIBITS :**

- 1) EXT. A – SALE AGREEMENT DATED 3/9/1991
- 2) EXT.B- ORDER OF PROHIBITION OF REGISTRATION OF DEEDS
- 3) EXT.C- POWER OF ATTORNEY NO:IV-73
- 4) EXT. D TO G- CERTIFIED COPIES OF DEED NO:404, 405, 406 AND 407
- 5) EXT.H- MUTATION ORDER
- 6) EXT. I- CERTIFIED COPY OF JAMABANDI

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE SUIT NO:06 OF 2011  
PLAINTIFF: SMTI NURJAHAN BEWA & ORS  
DEFENDANTS: SHRI SOLEMAN SK & ORS

- 7) EXT.J(1) TO (6) – HOUSE TAX RECEIPTS
- 8) EXT.K- AFFIDAVIT
- 9) EXT. L- NOTICE ISSUED BY BSNL
- 10) EXT. M, N- SALE DEED NO:499/ 2009 & 468/ 2009

Yusuf Azaz,  
Civil Judge, Dhubri.

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.