

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

Assam Schedule VII, Form No.132.

HIGH COURT FORM NO.(J)2

*HEADING OF JUDGMENT OF APPEAL/ CASE*  
DISTRICT : DHUBRI.

In the Court of the Civil Judge, Dhubri  
**Present : Yusuf Azaz, AJS.**  
**Civil Judge, Dhubri.**

**TITLE APPEAL No: 20/ 2014**  
Monday, the 30<sup>th</sup> January, 2017

**1) LEGAL HEIRS OF JAGODIPENDRA BARMAN**

- 1a) SHRI DURGESWAR BARMAN
- 1b) SHRI DHANANJAY BARMAN
- 1c) SHRI DEBESWAR BARMAN
- 1d) SMTI SADANA BARMAN
- 1e) SMTI SABITRI BARMAN
- 1f) SMTI SANTONA BARMAN
- 1g) SMTI ARPANA BARMAN
- 1h) SMTI KALYANI BARMAN

- 2) SHRI RAMENDRA BARMAN
- 3) SHRI MRINAL BARMAN
- 4) SHRI BROJENDRA BARMAN

..... APPELLANT (s).

- versus-

- 1) THE STATE OF ASSAM
- 2) THE SUB- DIVISIONAL OFFICER (CIVIL), BILASIPARA
- 3) THE SUB DEPUTY COLLECTOR, BILASIPARA

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

4) THE HAKAMA BOYAKANTA MAHILA SAMITY  
5) SHRI RAMDHYAN CHOUDHURY  
.....RESPONDENT

This suit coming on this day (or having been heard on) 19/11/2016  
presence of:

SHRI N. A SK, Advocate..... for the appellant(s)

SHRI K.A PRODHANI (GP), SHRI A.R AHMED, SHRI H.M DAS, Advocate  
.....for the respondent.

And having stood for consideration to this day, the court  
delivered the following judgment :

### **JUDGMENT**

1. This first appeal has been preferred by the plaintiffs /appellants on being dissatisfied with the judgment & decree dated 11/2/2014 passed by the learned Munsiff, Bilasipara in Title Suit No: 43/ 2010 (Originally Title Suit no: 451/ 2004) whereby the learned trial court dismissed the suit as well as the counter claim on contest with cost.
2. Upon admission of the appeal for hearing, the notices were issued to the respondents and the original case record of Title Suit no: 43/ 2010 was called for and received. The respondents appeared and contested the appeal.
3. In order to decide the appeal, let me narrate, in brief, the facts leading to this appeal:

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014

APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs

RESPONDENT: THE STATE OF ASSAM & ORS

4. The plaintiffs/ appellants are the legal heirs and successors of Gajen Barman (since deceased) and according to the plaintiffs, their predecessor in interest, Gajen Barman was the tenant under the Bijni Acquired Estate in respect of a plot of land measuring about 9 Bigha 12 Katha 4 Dhur (as per Bengali measurement) covered by Touzi no: 240 situated at village- Hakama but after the settlement operation, the above land became land measuring 10 Bighas 2 Kathas 19 Lessas covered by Dag no:49/ 69 (more particularly described in the schedule of the plaint and hereinafter referred to as the suit land). The plaintiffs pleaded that their predecessor, Gajen Barman acquired the rights of a tenant and paid rent to the Landlord, i.e the Bijni Raj Estate prior the acquisition of this land by the Government of Assam under the Assam State Acquisition of Zamindaries Act. According to the plaintiffs, after the death of their predecessor, Gajen Barman, they inherited the suit land and constructed residential house over the same. The plaintiffs pleaded that after the land was acquired by the State of Assam, they became the tenants under the State of Assam and they were possessing the suit land as landless persons having no other land except the suit land. The plaintiffs have alleged that all of a sudden on 1/11/2004 they received a notice from the SDO(Civil), Bilasipara under section 18(2) of the Assam Land and Revenue Regulation, 1886 in Encroachment case no: 2(B)/ 2004 directing the plaintiffs to vacate the suit land; hence this suit. The plaintiffs pleaded that they are in continuous possession of the suit land since the last about more than 65 years as such they cannot be evicted in a summary manner. The plaintiffs further pleaded that they made inquiries and came to know that the suit land is recorded as Government khas land in the revenue records and the Government is planning to

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

evict the plaintiffs from the suit land and allot the suit land to the defendant no:4; hence this suit praying for the declaration of the right, title and interest of the plaintiffs over the suit land and for other reliefs.

5. The defendant no:4, Hakama Boyakata Mahila Samity filed its written statement stating therein that the suit is not maintainable and that the same is barred by limitation. The abovenamed defendant alleged that the plaintiffs were never the tenants in respect of the suit land; as such the plaintiffs cannot acquire any right, title or interest over the suit land. According to the defendant no:4, the suit land was sold in auction in Auction sale case no: 4 RFA/ 1956-51 and the aforesaid suit land was converted to khas land. The defendant no:4 further pleaded that the plaintiffs never possessed the suit land and in fact the plaintiff no:1 used to reside at Hakama Kuthipara. The defendant no:4 stated that the suit land was fallow land and was low lying vacant but after the notice of eviction was given to the plaintiffs they had constructed temporary structures over the suit land. The defendant no:4 further alleged that the State of Assam had taken a decision to allot about 2 Bighas of land out of the suit land in favour of the defendant no:4 and the Land Advisory Committee has already taken a decision in this regard; hence prayed for dismissal of the suit.
6. The defendant no:5, Shri Ramdhyan Choudhury filed his written statement alongwith Counter Claim stating therein that the suit is not maintainable. The abovenamed defendant pleaded that the suit land was never the tenanted land of the plaintiffs or their predecessor, Gajen Barman, but the aforesaid land was sold in auction sale and he

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

(defendant no:5) purchased the same in the said auction and since then he became the owner having the right, title and interest over the suit land. The defendant no:5 stated that he had purchased the suit land in Auction sale case no: 4 RFA/ 56-57 and thereafter the possession of the suit land was delivered to him on 9/4/1967, but the plaintiffs came into the possession of the suit land after obtaining an ex-parte order of status quo and had constructed some temporary structures over the suit land; hence prayed for dismissal of the suit. The defendant no:5 further filed his counter claim stating therein that he has the right, title, interest and possession over the suit land but the plaintiffs evicted him only after the institution of this suit; hence also prayed for recovery of possession.

7. The defendant no:1 to 3, i.e the State of Assam and its Officials filed their joint written statement but the same was not accepted as it was filed beyond the prescribed period of 90 days.
8. Upon the pleadings of the parties, the learned trial court framed the following issues:

***(1) Whether the suit is maintainable in law and facts?***

***(2) Whether the suit is barred by limitation?***

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

***(4) Whether the plaintiffs acquired right, title, interest and possession over suit land?***

***(5) Whether the counter claimant is entitled to get declarations as prayed for?***

***(6) To what other reliefs the parties are entitled to get?***

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

**Additional Issues:**

***(1) Whether the plaintiff has derived title over the suit land by possessing the suit land adversely against the Government for thirty years and more?***

***(2) Whether the predecessor in interest (namely Gajen Barman) of Lt Jogodipendra Barman and the plaintiff no:2,3 and 4 have right, title and interest over the suit land?***

9. Both the parties adduced evidence in support of their cases. After hearing both sides, the learned trial court vide the impugned judgment dated 11/2/2014 dismissed the suit as well as the counter claim. On being aggrieved by and dissatisfied with the impugned judgment, the plaintiffs/appellants preferred the present appeal, amongst others, on the following grounds:

***(i) That the learned lower trial Court has erred in law and facts in deciding the suit;***

***(ii) That the court below failed to appreciate the evidence on record in its proper perspective;***

***(iii) That the learned trial Court ought to have held that the plaintiffs have right, title and interest over the suit land because the plaintiffs have been paying touzi bahira revenue in respect of the suit land since the year 1963 which shows that the plaintiffs are in possession of the suit land for more than 40 years and as such they have permanent and heritable right over the suit land;***

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

*(iv) That the learned trial court did not properly consider the documents filed by the plaintiffs;*

*(v) That the learned trial Court had erroneously held that there is dispute as regards the identity of the suit land because the identity of the suit land is not in dispute;*

*(vi) That the learned lower trial court ought to have decreed the suit.*

**DISCUSSION, DECISION & REASONS FOR THE DECISION**

10. I have perused the evidence and materials available in the case record. I have heard the arguments. Now, let me examine the evidence and other materials available in the case record to decide the case at hand.

**POINTS FOR DETERMINATION:**

***Point for determination no:1:Whether the learned trial Court had rightly decided the issue no:4 and the Additional Issue no: 1 and 2 wherein it held that the plaintiffs have failed to prove that they have the right, title and interest over the suit land?***

11. The learned counsel for the plaintiffs/appellants, Shri N.A Sk had contended that the plaintiffs have been occupying the suit land since the last more than 65 years and they had paid the rent of the suit land to the Government since the year 1963; as such the plaintiffs' right, title and interest over the suit land ought to be declared and it ought to have been held that the suit land was erroneously converted to government khas land.

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014

APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs

RESPONDENT: THE STATE OF ASSAM & ORS

12. The learned Government Pleader had on behalf of the respondents no:1 to 3 submitted that the suit land is government khas land and as such the plaintiffs cannot claim any right, title or interest over the same.
13. The learned counsel for the respondent no:4 had supported the submissions made by the Government Pleader and submitted that the suit land was the government khas land and it has been allotted to the defendant no:4; as such the defendant no:4 has the right, title and interest over the suit land.
14. The learned counsel for the defendant no:5 had contended that the defendant no:5 had purchased the suit land in auction sale and as such the defendant no:5 has the right, title and interest over the suit land.
15. I have perused the impugned judgment and the case record. Let me now discuss the materials on record and try to arrive at a definite finding in respect of the above issues.
16. At the outset I would like to state that it is an admitted fact that the suit land is a Government khas land and the same originally belonged to Bijni Raj Estate and later on it was acquired by the Government under the Assam State Acquisition of Zamindaries Act, 1951. It is a settled position of law that after acquisition of the land the same vests with the State of Assam and that too free from all encumbrances under section 4 of the aforesaid Act. Only the rights of tenants/ raiyots etc are protected under the aforesaid Act in view of the section 4(6) of the aforesaid Act and it provides that if there are any existing tenants/ raiyats then he

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.



TITLE APPEAL NO:20 OF 2014

APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs

RESPONDENT: THE STATE OF ASSAM & ORS

shall hold the land directly under the State upon the same terms and conditions as immediately before the vesting of the land. It is seen from the above that only the rights of those tenants/ raiyats are protected who are already holding land prior to the acquisition of the land and not of those persons who might have come into possession after the alleged acquisition. In the instant case at hand, the plaintiffs are claiming that their predecessor, Gajen Barma was initially the tenant under the Bijni Raj Estate prior to the acquisition of the Estate by the State of Assam, however, no such material is produced before the Court. The plaintiffs have failed to produce any documents like the Pattanama, Khatian, or rent receipts or such other documents to show that their predecessor was holding the land prior to the acquisition as tenant/ raiyot. The plaintiffs have produced two rent payment receipts marked as exhibit 1 and 2, which specifically shows that the same was for the period from 1963- 1969, i.e after the acquisition was done and not prior to the acquisition. It is specifically revealed from the exhibit 1 and the exhibit 2 that the same were issued after the suit land was acquired by the State of Assam under the Assam State Acquisition of Zamindaries Act, 1951; as such it cannot be held from the exhibit 1 and exhibit 2 that the plaintiffs' predecessor or for that matter the plaintiffs were the tenants/ raiyats in respect of the suit land prior to the acquisition of the land. The plaintiffs have further produced Touzi bahira revenue receipts which are marked as exhibit 3 to 12, but the same cannot confer any right, title or interest over the suit land. It is seen from the above discussions that the plaintiffs have miserably failed to prove that they were the tenants under Bijni Raj Estate prior to the acquisition of the suit land; as such no right, title or interest upon the suit land vests with the plaintiffs or their

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014

APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs

RESPONDENT: THE STATE OF ASSAM & ORS

predecessor. The perusal of the impugned judgment further reveals that the learned trial Court had rightly relied upon the judgment of the Hon'ble Apex Court in the case of **State of Assam Vs Radha Kanoo [1997 (2) GLT (SC) 35]** wherein the Hon'ble Apex Court had held that unless a person is inducted in a Government land as per Rules framed under the Assam Land and Revenue Regulation, 1886, the payment of Touzi Bahira revenue by an encroacher will not confer any right, title or interest over the Government khas land. In the instant case at hand, it is not the case of the plaintiffs that they were settled with the suit land under the Assam Land and Revenue Regulation, 1886; as such it is held that the plaintiffs cannot claim any right, title or interest over the suit land which is admittedly a government khas land.

17. The learned counsel for the respondents had further relied upon the judgment of the Hon'ble Gauhati High Court in case of **Izarul Islam Vs State of Assam [2016 (2) GLT 1239]**. The facts of the case of Izarul Islam (supra) is similar to the facts of this case wherein the plaintiff had prayed for the declaration of his right, title and interest over the suit land on the plea that his grandfather, Osimuddin Ahmed was the owner of the suit land and the same was gifted to him, but the State of Assam evicted the plaintiff. In the said case also the suit land was acquired by the State of Assam under the Assam State Acquisition of Zamindaries Act, 1951. The plaintiff therein had produced a Touzi bahira payment receipt to show that Osimuddin Ahmed was paying Touzi bahira revenue in respect of the suit land to the Government. The learned trial Court had dismissed the suit of the plaintiff and the Hon'ble High Court had affirmed the judgment of the learned trial Court by holding that:

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

***"Plaintiff in the present case brought Ext 9 on record to claim that this grandfather was paying Touzi revenue to the Government with respect to the suit land. In that event, possession of his grandfather was a permissive one and it was not adverse. Permissive occupier cannot acquire right, title and interest with respect to a land for long possession until title vests on him in any of the recognized means by the Government under the provisions of the Assam Land and Revenue Regulation, 1886. Admittedly, plaintiff has failed to make any averment in the plaint and did not produce a scrap of paper to show that he was settled with the land and so he cannot claim any right, title and interest with respect to the suit land. The learned trial Court, therefore, does not appear to have committed any error in dismissing the suit for declaration of right, title and interest."***

18. It is seen from the above discussions that the facts of this case is similar to the facts of the case of Izarul Islam (supra) and the plaintiffs herein had also relied upon only the exhibit 1 to 12 which are revenue paying receipts and Touzi Bahira payment receipts; as such it is held that the plaintiffs cannot claim any right, title and interest over the suit land, which is admittedly a government khas land and was acquired by the State of Assam under the Assam State Acquisition of Zamindaries Act, 1951.

19. The learned counsel for the respondents had further relied upon, and rightly so, upon the judgment of the Hon'ble Gauhati High Court in the

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014

APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs

RESPONDENT: THE STATE OF ASSAM & ORS

case of **Hazera Bewa Vs State of Assam [2016 (3) GLT 393]** wherein the Hon'ble High Court had held that Touzi Bahira Revenue is merely a fine collected from the encroachers and it will not confer any legal right upon the encroacher and they can be evicted under Rule 18 of the Assam Land and Revenue Regulation, 1886.

20. The learned counsel for the appellants/ plaintiffs had further contended that the plaintiffs are in possession of the suit land and their names are recorded in the Chitha (Exhibit 13); as such they have right, title and interest over the suit land. The above contention of the plaintiffs/ appellants is not sustainable because the Chitha is not a document of title and it merely shows the person who is in possession of the said land. In the instant case at hand it is an admitted fact that the plaintiffs are in possession of the suit land; as such mere recording of their names in the Chitha would not confer any right, title or interest in their favour because they have none. The Chitha does not confer any right, title or interest in favour of the persons whose names are recorded therein as such it is held that the defendants have no right, title or interest over the suit land and the learned trial Court had rightly held so. Further, the exhibit 13 reveals that the name of the State of Assam is recorded as Pattadar and the names of the plaintiffs and their predecessor is shown as encroacher and not Landholder or Settlement Holder.

21. The learned counsel for the appellants had further contended that the defendants are in possession of the suit land for more than 65 years and as such they are not liable to be evicted. The above contention of the

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

plaintiffs/ appellants is not sustainable because it is a settled position of law that mere long possession, howsoever long, cannot confer any right, title and interest upon an immovable property.

22. The learned counsel for the plaintiffs/ appellants had further contended that they are adversely possessing the suit land for more than 30 years and as such they have acquired the right, title and interest over the suit land. The above contention of the plaintiffs is not sustainable because their above plea is contrary to their pleadings. The plaintiffs had pleaded that their predecessor was the tenant under the Bijni Raj Estate and thereafter under the State of Assam and they had paid Touzi Bahira Revenue; as such it is seen that the plaintiffs are all along recognizing the State of Assam as the owner of the suit land and are also paying fine for their occupation of the suit land, which shows that the essential ingredients of adverse possession are missing in this case. Moreover, the plaintiffs have failed to plead and prove as to since which date their possession became adverse. Further, it is already held by the Hon'ble Gauhati High Court in the case of Izarul Islam (supra) that if a person pays Touzu Bahira Revenue then his possession is akin to permissive occupier and as such it can never be adverse and mere long possession cannot confer any right, title or interest in his favour. In view of the above discussions it is held that the plaintiffs have failed to prove that they are adversely possessing the suit land and the learned trial Court had rightly held so in the Additional Issue no:1.

23. The learned counsel for the plaintiffs have relied upon the judgment of the Hon'ble Allahabad High Court in the case of **Gajjan Vs Hira Lal** [

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

**AIR 1982 NOC 32]** to show that rent receipts have evidentiary value and a sub-tenant paying rent revenue cannot be evicted. In my considered opinion the law laid in the above judgment is not applicable to the facts of this case because in that case (Gajjan's) the plaintiffs' predecessor was a sub-tenant and paid rent and as such it was held that he had right, but in the instant case at hand, the plaintiffs have failed to prove that they were raiyots/ occupancy tenants in respect of the suit land prior to the acquisition or after the acquisition, but on the contrary they are paying Touzi Bahira Revenue which is in the nature of fine and not rent.

24. The learned counsel for the appellants had further relied upon the judgment of the Hon'ble Apex Court in the case of **Supdt & Remembrancer of Legal Affairs, Bengal Vs Anil Kumar Bhujra [AIR 1980 SC 52]** to show that possession means different in different contexts. I have read the aforesaid judgment. It is an admitted fact that the plaintiffs are in possession of the suit land, but it is already held that the mere long possession, howsoever long cannot confer any right, title or interest over the possessor.

25. The learned counsel for the appellants had further relied upon the judgment of the Hon'ble Apex Court in the case of **Uttam Singh Dugal & Co Vs Union Bank of India [2000 (3) CCC 250]** and of the Hon'ble Madras High Court in the case of **Dr. K Padmanabhan Vs W.S Nisha [2002 (2) CCC 234]** to show that a fact admitted is not required to be proved and judgment on admission may be delivered under Order 12 Rule 6 CPC. The learned counsel for the appellants had

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014

APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs

RESPONDENT: THE STATE OF ASSAM & ORS

contended that the plaintiffs are admittedly in possession; as such the judgment on the above admission may be delivered. The above contention of the appellants is not sustainable because it is already held that long possession does not confer any right, title or interest upon the possessor.

26. The learned counsel for the appellants had further contended that the plaintiffs are in possession of the suit land for a considerably long period and as such they cannot be evicted in a summary manner under Rule 18(2) of the Assam Land and Revenue Regulation, 1886. The above contention of the appellants is not sustainable because it is already held by the Hon'ble Gauhati High Court in the case of Hazera Bewa (supra) that a person paying Touzi Bahira revenue is an encroacher and he can be evicted under Rule 18 of the Assam Land and Revenue Regulation, 1886.

27. The learned counsel for the appellants had contended that the learned trial Court had only discussed the issue no:4 but he had decided the Additional Issues on the basis of the decision in the issue no:4 as such the judgment is liable to be interfered with. The above contention of the appellants is not sustainable because all the three issues being issue no:4 and the Additional Issues are intricately connected to each other and the decision in the issue no:4 covers the additional issues also and as such the learned trial Court had not erred in deciding the additional issues on the basis of the issue no:4.

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.

TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

28. In view of the above discussions, it is held that the learned trial court had rightly held that the plaintiffs do not have any right, title and interest over the suit land and thus the decision of the learned trial Court in the issue no:4 and the Additional issues are affirmed.

29. DECISION: The decision of the learned trial Court in the issue no:4 and the Additional Issue no:1 and 2 are affirmed.

30. It would further be pertinent to mention herein that the defendant no:5 had filed Counter claim wherein he had claimed that he has the right, title and interest over the suit land by way of auction purchase, and as such he prayed for the declaration of his right, title and interest over the suit land and for eviction of the plaintiffs, but the learned trial Court had held that the defendant no:5 failed to prove his right, title and interest over the suit land and thereby dismissed the counter claim, but the defendant no:5 had not challenged the dismissal of his Counter claim by way of Cross Appeal/ Cross Objection; as such the decision of the learned trial Court in the issue no: 5 is beyond the scope of this appeal.

31. I have perused the decision of the learned trial court in the issue no: 1, 2 and 3 and I do not find any infirmity in the decision of the learned trial court in the above issues as such the decision of the learned trial court in the issue no: 1, 2 and 3 is affirmed.

32. In view of the above discussions, and more particularly the decisions reached in the issue no:4 and the Additional Issues it is held that the

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.



TITLE APPEAL NO:20 OF 2014  
APPELLANT: LEGAL HEIRS OF JAGODIPENDRA BARMAN & ORS Vs  
RESPONDENT: THE STATE OF ASSAM & ORS

learned trial Court had rightly decided the issue no:6 and rightly held that the plaintiffs are not entitled to any relief in this suit.

ORDER

33. In view of the above discussions, the appeal is dismissed and the impugned judgment and decree passed in Title Suit no:43/ 2010 by the learned Munsiff, Bilasipara is hereby affirmed.

34. Prepare decree accordingly.

35. The appeal is dismissed on contest with cost.

36. Send back the LCR alongwith a copy of the judgment to the learned trial Court.

Given under my hand and the seal of this Court on this the 30<sup>th</sup> day of January, 2017 at Dhubri.

YusufAzaz,  
Civil Judge, Dhubri

TYPED BY ME

YUSUF AZAZ, CIVIL JUDGE, DHUBRI.