

HIGH COURT FORM NO.(J) 2
HEADING OF JUDGMENT ON ORIGINAL APPEAL

IN THE COURT OF THE CIVIL JUDGE, TEZPUR, SONITPUR

Present: **N.J. Haque, LLM, AJS**
Civil Judge
Tezpur, Sonitpur

28th May' 2019
TITLE APPEAL NO. 14/2018

Smt Nalini Saikia
W/o (L) Pramod Ch. Saikia
Vill- Da-Gaon,
Mouza- Naharbari,
PO & PS- Thelamara,
Dist - Sonitpur, Assam.

----- Appellant/Defendant

-Versus-

- (1) Sri Chandan Dev**
- (2) Sri Bandan Dev**
- (3) Sri Nandan Dev**
- (4) Sri Sanju Dev**
- (5) Sri Ravi Dev**

All are sons of
(L) Nirmal Ch. Dev
Vill- Erasuti Jangal Gaon
Mouza- Borgoon,
PO & PS- Thelamara,
Dist - Sonitpur, Assam.

--- Respondents/Plaintiffs

- (1) Smti Purnima Dev Sarkar**
W/o Sri Parimal Sarkar
D/o (L) Nirmal Ch. Dev
R/o Medhi Chuburi,
Mouza- Dhekiajuli,
Dist - Sonitpur, Assam.
- (2) Smti Moni Dev Kundu**
W/o Sri Sibu Kundu
D/o (L) Nirmal Ch. Dev
R/o Bijni, Near Railway Station
PO & PS-Bijni
Dist – Chirang (BTAD), Assam.

--- Proforma Respondents/ Proforma Defendants

Title Appeal No-14/18 (Arising out of T.S No-31 of 2013)
Smt Nalini Saikia Vs. Sri Chandan Dev and Ors

This a appeal preferred under order-41 Rule 1, 2 and 5 read with Section 96 of CPC by the defendant/appellant against judgment and decree dated 23-04-2018 passed by the learned Munsiff, No.2, Tezpur in Title Suit No.31 of 2013, decreeing the suit of the respondents/ plaintiffs and dismissing the counter claim of the appellant/ defendant and came up for final hearing on -04-05-2019.

Learned Advocate appearing for the Appellant : - Mr. P.C. Sarmah
 Learned Advocate appearing for the Respondent : - Mr. D. Bose

J U D G M E N T

1. This first appeal has been preferred by the defendant/appellant on being dissatisfied with the judgment and decree passed by Ld. Munsiff, No.2, Tezpur dated 23/04/2018, vide T.S No- 31 of 2013, whereby the learned trial court decreed the suit on contest with cost and dismissing the counter-claim of the appellant/defendant.
2. Upon admission of the appeal for hearing, the notice was issued to the respondents and the original case record of Title Suit no-31/ 2013 was called for and subsequently received.
3. In order to decide the appeal, let me describe, in brief, the facts leading to this appeal:--

PLAINTIFFS/RESPONDENT'S CASE

4. Case of the plaintiffs/respondents appears to be in a narrow campus is that land measuring 1 Bigha 3 Kathas 7 Lessas under Dag No.25 and land measuring 5 Bigha 0 Katha 14 Lessas under Dag No.26 in total 6 Bigha 4 Kathas 1 Lessas covered by PP No.76 was purchased by Suraj Nalini Devi alias Suraj Bala Devi wife of Bimal Ch. Dev from Sri Debendra Nath Saikia, vide Registered Sale Deed No.233 in the year 1951 dated 31-01-1951 and she took delivery of possession form the seller and accordingly mutated her name in the land records in place of Debendra Nath Saikia vide order dated 14-07-1952. Thus Suraj Nalini Devi alias Suraj Bala Devi became the owner and possessor of the said land. That Suraj Nalini Devi alias Suraj Bala Devi died on 29-12-2000 and her husband died on 10-11-1997. After the death of Suraj Nalini Devi alias Suraj Bala Devi her husband Bimal Ch. Dev, her brother-in-law Nirmal Ch. Dev, the plaintiffs and proforma defendants

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became the owner of the said land. In the month of June 2009 the plaintiffs received a notice from the Dhekiajuli Circle Office and came to know that the defendant/appellant Smti. Nalini Saikia, has applied for mutation of a plot of land measuring 2 Bighas under Dag No.26 of PP No.76 out of total land measuring 5 Bigha 0 Katha 14 Lessas by virtue of alleged purchase documents of the year 1968 and 1971. As a matter of fact the total land as mentioned in the schedule including the land for which the defendant has applied for mutation has been continuously under possession of Suraj Nalini Devi alias Suraj Bala Devi since the year 1951 and after her death the plaintiffs without any interruption. The defendant never possess any portion of land at any time. On the date fixed i.e. 22-06-2009 the plaintiffs came to know about 2(two) Sale-Deeds of 1 Bigha each by which the land is stated to have been sold by their father Nirmal Ch.Dev to the defendant but Nirmal Ch.Dev was not the owner or title holder of the said property and he had no right to execute and register Sale-Deed in favour of the defendant either in the year 1968 or in the year 1967 because Nirmal Ch.Dev has no right, title and interest over any portion of land that belongs to Suraj Nalini Devi alias Suraj Bala Devi when said Suraj Nalini Devi alias Suraj Bala Devi was alive in the year 1968 or 1971.

DEFENDANT/APPELLANT'S CASE

5. The defendant/appellant contested case of plaintiff by filling written statement both in law and facts. The defendants denied that Suraj Nalini Devi @ Suraj Bala Devi had been in occupation of the suit land till her death and was paying land revenue as alleged. The defendant further pleaded that Suraj Nalini Devi @ Suraj Bala Devi W/O Late Bimal Ch. Dev had sold the suit land to Nirmal Ch. Dev, the father of the plaintiffs and proforma defendant in the year 1955 vide Registered Sale Deed No.522 of 1955. Thus Nirmal Ch. Dev became the owner of the suit land by way of right of purchase and not as legal heir of Suraj Nalini Devi @ Suraj Bala Devi as alleged by the plaintiffs.

COUNTER CLAIM BY DEFENDANT/APPELLANT

6. That the defendant/ counter claimant further pleaded in her counter claim that she had purchased land measuring one Bigha vide registered Sale Deed

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No.3382 of 1968 from Nirmal Ch. Dev father of the plaintiffs as well as proforma defendant and another 1(one) Bigha of land vide Registered Sale Deed No.105 of 1971 from the same vendor with delivery of possession. The 2(two) Bighas of land purchased by the defendant by the aforesaid two sale deeds are under common dag and patta and adjacent to each other. Said two bighas of land is described in the schedule 'A' of this counter claim under a compact four boundary and since the day of purchase the defendant/ counter claimant had been occupying the same by cultivating by herself as well as through different "adhiars" continuously without having any disturbances from any including the vendors of the defendant till the year 2010. The defendant counter claimant also due to some inadvertent reasons did not mutated her name in initial stage. That in the month of February, 2011 the defendant's elder son who was living at Nikamul Chariali, Tezpur along with his family also died due to some critical illness. Under, that circumstances to support family of her elder son she shifted her residence at Nikamul Chariali, Tezpur along with her husband in the month of July 2011 and the plaintiffs taking advantage of absence of the defendant/ counter claimant by the site of the suit land in the month of July 2011 wrongfully encroached into the vacant part of the suit land mentioned in the schedule 'A' of this counter claim as well as schedule 'B' of the plaint of the suit and started cultivation against the will of the defendant/ counter claimant without having any right, title and interest. Hence, the counter-claimant prayed to declare her right, title, interest over the suit land along with recovery of khas possession of suit land.

WRITTEN STATEMENT OF THE PLAINTIFF/RESPONDENT

7. The plaintiffs/respondents in their written statement pleaded that their predecessor Nirmal Ch. Dev never purchased the suit land from Suraj Bala Devi and never become owner of the suit land. That sale deeds executed and registered being No.3382 of 1968 or Sale Deed being No.105 of 1971 of Tezpur Sub-Registry, Tezpur. The defendant cannot acquire any right, title and/or interest over any portion of the land as mentioned either in the schedule of the plaint or in the schedule of the counter-claim by the strength of sale No.3382 of 1968 or Sale Deed being No.105 of 1971. That Suraj

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Nalini Devi never sold any land to Sri Nirmal Ch. Dev and never executed and registered sale deed No. 522 of 1955 or any sale deed of Tezpur Sub-Registry. As Nirmal Ch. Dev did not purchase any land from Suraj Nalini Devi, so Nirmal Ch. Dev could never mutate any land in his name. The alleged sale deed is a forged document that is why the defendant could not and did not mutate her name in the land records till today. That the defendant never occupied any portion of land and never started construction of Assam type house either in the year 2007. Upon the above plaintiffs/respondents prayed to dismiss the suit with cost.

8. Upon the above pleadings on record Learned Munsiff No-2, Sonitpur framed the following **issues:**

- (i) Whether the suit is bad for non-joinder of Himangshu Dev?
- (ii) Whether Suraj Bala Devi sold the suit land to Nirmal Ch. Dev in 1955 vide registered sale deed No. 522/55?
- (iii) Whether the plaintiffs are entitled to declaration of right, title and interest over the schedule B land?
- (iv) Whether the plaintiff is entitled to the other reliefs prayed for?
- (v) Whether the Sale Deed No.3382/ 1986 and Sale Deed No.105/ 1971 made in favour of counter claimant is valid and enforceable in law?
- (vi) Whether the counter claimant is entitled to declaration of right, title and interest over the schedule B land?
- (vii) Whether the counter claimant is entitled to the other reliefs prayed for?
- (viii) To what other relief/ reliefs the parties are entitled?

Additional Issue

- (ix) Whether the counter claim is bad for non-joinder of necessary party?
9. The plaintiff/respondent during the course of the evidence examined as many as 3 (three) witnesses and defendant examined as many as 7(seven) witnesses. The plaintiff although filed evidence on affidavit of total 7 witnesses but PW 4 to 6 was not produced by the plaintiff to face their cross examination irrespective of number of opportunities given to them so vide order dated 20-06-2016 Ld. Court below dispensed the cross examination and held that evidence of PW 4 to 6 will not be considered in favour of the plaintiff. PW 7 is also not cross-examined so his evidence was also not considered.

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10. I have heard the Ld. Advocates appearing before this court on behalf of both the sides at length and also perused the documents available on record.
11. On careful perusal of the judgment and order pronounced by Id. Munsiff, No.2, Tezpur on 23/04/2018, it divulges before this court that Ld. Court below decreed the suit of the respondents/plaintiffs and dismissed the counter-claim of the appellant/defendant, and the defendant/appellant on being aggrieved and dissatisfied with the impugned judgment and order preferred the present appeal upon the following grounds:

GROUND OF APPEAL

- (i) For that the learned Court of Munsiff No.2 has erred in law and facts in respect of decreeing the suit in favour of the respondents/plaintiffs and dismissing the counter-claim of the appellant/defendant;
- (ii) For that the learned Court of Munsiff No.2 committed great mistake in decreeing the suit and dismissing the counter-claim of the appellant/defendant without appreciation of the written statement and counter-claim of the appellant, evidences adduced from the appellant, evidences adduced from the appellant's side as well as documents as exhibited by the appellant;
- (iii) For that the learned trial court measurably failed to appreciate the cross-examination of the plaintiff's witnesses examined from the appellant/defendant's side;
- (iv) For that the learned Court of Munsiff No.2 committed great error in giving weigh and importance in the plain of the plaintiffs/respondents and evidences of the plaintiffs' witnesses;
- (v) For that the learned Court of Munsiff No.2, has framed as many as 9 number of issues in the suit and all issues are not properly and judiciously discussed to arrive at a proper finding;
- (vi) For that the learned trial court measurably failed to frame 2 Nos. of main and vital issues i.e. (a) Whether the suit and the counter claim are maintainable? (b) Whether there is any cause of action for filing the suit and the counter-claim? Without discussing of the said non-framed issues no effective judgment and decree can be passed;
- (vii) For that the learned court of Munsiff No.2 has measurably failed to frame proper and vital issues on the basis of pleadings of both sides;
- (viii) For that the learned trial court has measurably failed to discuss the issues No.(ii) and (v) of properly/ judiciously and impartially for which the learned court arrived at a wrong finding at the time of preparation of her judgment;
- (ix) For that if the issues framed in the suit were properly and discussed for determining the real questions in the dispute by the learned trial court, the suit ought to have been dismissed and the counter claim ought to have been decreed;
- (x) For that the judgment and decree passed by the learned trial court are without due care and proper appreciation of all materials as are

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- available on the case record;
- (xi) For that the learned trial court committed grave error at the time of discussion of issues No.(i) and (ix) holding the view that Himangshu Dev who has become untraced for about eight years presumed to be dead without declaring dead by a Civil Court in a separate suit as provision u/s 108 of the evidence act;
 - (xii) For that the learned court of Munsiff No.2 unnecessarily framed the issues No.(ix) and finding of deciding in negative of the issues No.(i) in respect of non-joinder of parties is completely unjust and uncalled for;
 - (xiii) For that the findings of discussion made in Line No.1 to 3 of para No.31 of the judgment of the learned trial court is completely without appreciation of the exhibited document No."Ka";
 - (xiv) For that the learned trial court completely failed to discuss the evidence of chief and the cross-examination of both sides at the time of passing the impugned judgment and decree;
 - (xv) For that the decisions and findings of the learned court below are not impartial and the same are under pre-conceived impression and idea based on mere conjecture, surmises and misconception of both in facts and law;
 - (xvi) For that the impugned judgment and decree is being against equity, justice and good conscience, hence the same is liable to be reserved with cost;
 - (xvii) For that the impugned judgment and decree passed on 23-04-2018 in TS No. 31/2013 is against the all canons of justice and hence liable to be set aside;

POINTS OF ARGUMENTS

12. I have heard the arguments put forwarded by both the sides and during the argument hearing learned advocate appearing on behalf of the defendant/appellant emphatically submitted before this court that learned trial court did not apply its mind judiciously at the time of passing the impugned judgment and decree specifically in deciding Issue Nos.2 and 5.
13. As such, it is seen from the points of argument as well as Memo. of Appeal that the appellants disputed the decisions of Ld. Trial court below over Issue Nos.2 and 5 and in respect of discussion and decision of other issues, the plaintiff/appellant have not stated anything in the Memo of Appeal as well as during the oral submission before this first appellate court.
14. Per contra, learned advocate appearing on behalf of the respondents vehemently argued before this court that the learned court below has decided the suit rightly and no irregularity committed by the learned trial court below in dismissing the Title Suit No.31/2013.
15. For sake of proper appreciation of evidences on record, let us reproduce

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relevant portions of evidences adduced by both the sides.

EVIDENCE OF PLAINTIFF/RESPONDENT SIDE

16. PW-1 in his evidence-in-chief reproduced his contention of the plaint and exhibited 15 nos. of documents. In his cross-examination he further deposed that they have not filed any certified copy of FIR or any declaration from the court. There is no half-constructed pucca house on the suit land. He has mentioned in his plaint that on 22-06-2009 they visited the Circle Officer and came to know that defendant applied for mutation of her name through two sale deeds of 1 bigha each and also came to know that the aforesaid sale deeds of the years 1968 and 1971 shows sale made by his father. He has filed the suit on 18-03-2013. Neither has he filed any application for cancellation of the aforesaid deeds nor filed any other case. He thinks that the deed No.522 of 1955 is made fraudulently. He has not filed any suit for cancellation of the deed No.522 of 1955. In para no.7 of his plaint he has mentioned that based on the application filed by defendant a Mutation case No.152/08-09 was registered in the office of Dhekiajuli Revenue Circle and in the said Mutation case Circle Officer declared that the deeds for the year 1968 and 1971 submitted by defendants are illegal and cancelling the mutation submitted the record to office of Addl. Deputy Commissioner. Said case record No.152/08-09 (mutation case) is not called for in this civil suit and the copy of the order passed in the said case, mentioned in the plaint, was also not filed in this suit. He could not say if the Misc. case No.1/2009-10 was disposed of vide order dated 07-03-2011. He and the other plaintiffs have not filed any appeal against the order dated 07-03-2011 passed in Misc. case No.1/2009-10 and against the letter dated 28-07-2011 sent by Addl. Deputy Commissioner to the Circle Officer. Mutation of his name along with all his brothers were done over the suit land vide order dated 03-08-2007 of Circle Officer. Suit land was never mutated in the name of his father. **His father died after 7 years of the death of Suraj Nalinibala Devi, but his father never asked for mutation for the suit land.** He has applied for obtaining certified copy of the deed on 04-03-2013 and received the copy on 05-03-2013. He doesn't know if his father acquired right, title and interest and possession over the land vide registered sale

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deed No. 522 of 1955, by way of purchase from Nalinibala Devi, which is shown to have been sold to defendants by his father by the aforesaid deeds.

17. PW-2 supported the version of the plaintiff by reproducing the contentions of the plaintiff in his evidence-in-chief. He in his cross-examination deposed that he went to the Circle office at the time mutation of his name in the year 2007. The contentions made in the plaint and his affidavit were written based on the statement of his brother Ravi Deb and he signed the same as asked by his brother.
18. PW-3 supported the version of the plaintiff by reproducing the contentions of the plaintiff in his evidence-in-chief. He in his cross-examination deposed that he signed in the blank paper at his residence before typing of his affidavit on it. He does not know who typed and written his affidavit. He doesn't know what is written in his affidavit.

EVIDENCE OF DEFENDANT/RESPONDENT'S SIDE

19. DW-1 has submitted her examination in chief supporting the contentions of the written statement and she in her cross-examination deposed that first land was purchased in 1968 and the second land was purchased in 1971. She did not file any application before the Circle Officer stating that the Mandal had lost the two original deeds. He also did not file any ejahar before the police stating loss of the two original deeds. He has obtained the Ext. Kha and Ext. Ga in the year 2004 and 2007. **Prior purchasing the land by her, the land was under the possession of Putul Nath. She has not mentioned in her written statement or in the counter claim that the two original deeds were lost.** Her eldest son died in the year 2011. She has filed counter claim for 2 Bighas of land. Mutation in her name is not done till now. She has not mentioned in her written statement or in the counter claim regarding cultivating the suit land by Putul Nath on mortgage and purchase of the land by Putul Nath.
20. DW-2 submitted his evidence in chief through affidavit by reproducing the contents of written statement and he has deposed in his cross-examination that he did not take the suit land on mortgage and it was taken on mortgage by his brother Rudra Nath. To his knowledge, the defendant has filed the counter claim for 2 Bighas of land.

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21. DW-3 submitted his evidence in chief through affidavit by reproducing the contents of written statement and he has deposed in his cross-examination that Putul Nath did not take the suit land on mortgage and it was taken on mortgage by his brother Rudra Nath. There was mutation earlier and he saw it. **The house over the suit land was constructed by plaintiff and it was made up to half-wall.**
22. DW-4 submitted his evidence in chief through affidavit by reproducing the contents of written statement and he has deposed in his cross-examination that there is a river between his house and the suit land.
23. DW-5 deposed that Ext. Jha is the record of Misc. case. Ext. Jha record was sent as per the order dated '07-03-2011 of Circle Officer, Dhekiajuli for necessary approval to the office of Addl. Deputy Commissioner by letter dated 21-04-2011. The petitioners applied for cancellation of illegal mutation in the names of Himangshu Ch. Dev, Chandan Ch. Dev, Bandhan Ch. Dev, Nandan Ch. Dev, Ganjan Ch. Dev, Rabi Ch. Dev, all sons of Nirmal Ch. Dev, and to maintain the mutation of previous pattadars in respect of the land measuring 2 bighas out of 5 bighas 14 lessas of land, situated at Erasuti Jangal gaon, Mouza – Boraon, covered under Miyadi Patta No.41. Suraj Nalini Bala Devi has no heirs and after her death her nephew i.e. the names of 2nd party Sri Himangshu Ch. Deb and 5 others was mutated.
24. PW-6 is the deed writer of Sub-Registry Office, Tezpur. He was examined to prove Ext- Ka, Ext-Tha, Ext-Ta and Ext-Da. DW-7 was examined one Lat Mandal and he was examined to prove Ext-Dha and Ext-Na.

DISCUSSIONS, DECISIONS & REASONS FOR SUCH DECISIONS

25. From the argument put forwarded by both the sides, it transpires before this court that the defendant/appellant side have raised objection against the discussion and decision of learned trial court below more specifically in respect of discussion and decision of Issue Nos. 2 and 5. As such, this first appellate court thinks it deem fit and proper to discuss the Issue Nos. 2 and 5 at the outset.
26. From the pleadings as well as evidence on record, this first appellate court in the forthcoming discussion, shall try to ascertain the following questions :

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1. **Whether learned Munsiff No-2, Sonitpur, Tezpur rightly decided and answered the issue no-2 & Issue No-5?**
 2. **Whether learned Munsiff No-2, Sonitpur, Tezpur rightly decreed the suit of plaintiffs and dismissed the counter-claim of appellant/counter claimant providing sufficient reasons?**
 3. **Whether learned Munsiff No-2, Sonitpur, Tezpur appreciated the evidences adduced by the respondents/plaintiffs & defendants/appellant properly leaving no stone unturned?**
 4. **Whether findings of learned Munsiff No-2, Sonitpur, and Tezpur are based upon lawful consideration and settled provisions of law?**
27. Taking notes, upon the questions formulated hereinbefore in the upcoming discussions this first appellate court shall try to answer the questions above including the grounds of appeal of appellants in the light of evidence adduced by the appellant.
28. **Issue No-2**:- Whether Suraj Bala Devi sold the land to Nirmal Chandra Dev in the year 1955 vide registered sale deed no-522 of 1955? This issue relates to the crux of the dispute as the discussions and decision of this issue shall decide the fate of other issues.
29. Before entering into the discussion and decision of issue no-2, let us discuss the prime contentions of the plaintiffs/respondents as well as the contentions of the defendant/appellant to appreciate the factual aspect of this case properly. The plaintiffs of T.S No-31 of 2013 pleaded that original owner of the suit land was one Suraj Bala Devi and she died issue less and after her death the plaintiffs/respondents inherited the suit land and they mutated their names over the suit land and possessed the suit land since from long past. The plaintiffs/respondents further pleaded that in the year 2009 they came to know having notice from the Dhekiajuli Circle office that defendant prayed for mutation of the suit land by virtue of sale deed of the year 1968 and 1971 and on-22/6/2009 the plaintiffs came to know that their father named Nirmal Chandra Dev sold out the suit land measuring 2 Bigha in two different deeds in favour of the defendant. Per contra, the defendant contested the suit by filling written statement affirming that original owner

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of the suit land was one Suraj Bala Devi and during her life she sold out the suit property to father of the plaintiffs vide registered sale deed no-522 of 1955 and subsequently, the father of plaintiffs sold the suit land to the defendant in the year 1968 and 1971. The defendant further pleaded that since the day of her purchase she has been possessing the suit land and in the year 2011 the plaintiffs dispossessed the defendant from the suit B schedule land. The defendant further filed counter claim praying her right, title, interest over the suit land along with a prayer of recovery of suit property.

30. Hence, from the pleadings of both the sides, this court finds that entire dispute of plaintiffs/respondents and defendant rest upon the execution of registered sale deed no-522 of the year 1955 in favour of the plaintiffs father named Nirmal Chandra Dev by the original owner named Suraj Bala Devi. The question of acquiring valid title over the suit by the defendant will arise only after prove of sale of suit land in favour of the defendant by the plaintiffs father named Nirmal Chandra Dev vide sale deed no-522 of 1955.
31. Now coming to the evidences presented before this court in respect of sale of suit property by Suraj Bala Devi in favour of plaintiff's father named Nirmal Chandra Dev in the year 1955, this court finds that sale deed no-522 of 1955 exhibited by the defendant/counter claimant as Ext-"Ka" in the form of a certified copy and to prove the registration of said document defendant side examined DW-6. As per the evidence of DW-6, this court finds that Ext-"KA" was registered between the Suraj Bala Devi and plaintiff's predecessor named Nirmal Chandra Dev.
32. Learned advocate appearing on behalf of the plaintiffs/respondents during the time of argument hearing vehemently argued before this court contending that Ext-Ka is a certified copy and defendant failed to prove its proper execution even after getting specific denials from the plaintiffs side. The learned advocate appearing on behalf of the plaintiff/respondents further argued that Ext-ka is a secondary forms of evidence and defendant failed to bring the original sale deed or failed to obtain leave from the court before adducing the secondary forms of evidence before this court and the defendant even failed to explain whereabouts about the original Ext-Ka

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document. Upon the above plaintiffs/respondents counsel submitted that Ext-Ka document has no evidentiary value and as such same is liable to be discarded and learned trial court rightly observed that execution of Ext-Ka document stands not proved.

33. Per contra, learned advocate appearing on behalf of the defendant/appellant during the time of argument categorically submitted before this court that execution of Ext-Ka document duly proved before the court.
34. In the light of pleadings of both the sides if we go by the documentary evidences adduced by both sides, this court finds that Ext-Ka is a certified copy of original sale deed no-522 of 1955 and DW-6 being an extract writer of the said registry office only proved the registration of said deed and the proper execution of the sale deed not proved before this court. The registration of a document may be proved by way of examining the volume register through an official of the concerned sub-registry office but the proper execution of the documents needs to be proved by adducing cogent evidence where there is a specific denial against the document concerned.
35. It is true that a sale deed being a private document cannot be used in evidence unless its execution is admitted by the party against whom it is intended to be used, or it is established by proof that it is duly executed. Due execution is proved by establishing that the signature (or mark) in token of execution was affixed to the document by the person who is stated to have executed the document. This is normally done either (i) by examining the executant of the document; or (ii) by examining a person in whose presence the signature/mark was affixed to the document; or (iii) by referring the document to a handwriting expert and examining such expert; or (iv) by examining a person acquainted with handwriting/signature of the person who is supposed to have written/signed the document; or (v) by requesting the Court to compare the signature of the executant in the document with some admitted signature of the person shown as executant; or (vi) by proving admission by the person who is said to have signed the document, that he signed it.
36. In this case the defendant/appellant merely exhibited the certified copy of sale as Ext-Ka and further failed to call upon any of the witnesses or vendor

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of the sale deed to prove its proper execution. The defendant/counter claimant wanted to avail reliefs upon the Ext-Ka document and after getting specific denials from the plaintiffs failed to prove its proper execution. The defendant ought to have call its vendors or anyone of its witnesses to prove the execution of document at least in view of section-67 of Indian Evidence Act.

37. The **Hon'ble Gauhati High Court in 1990 (2) GLJ 244** while dealing with section 67 of the Indian Evidence Act held that mere registration of a document is not, by itself, sufficient proof of its execution. The execution of a document has to be proved independently. Mere proof of admission or execution of registration before the Sub-Registrar, therefore, does not satisfy the requirement of section 67 of the Indian Evidence Act, which deals with proof of execution.
38. In the instant case from the evidence of the plaintiff side it appears that the plaintiff side failed to call any of vendors or witnesses in order to prove the execution of the said sale deed vide Ext-Ka.
39. Learned Advocate appearing on behalf of the defendant/appellant further argued that Ext-ka document being 30 years old document a strong presumption over its genuineness may be drawn upon in view of section-90 of Indian Evidence Act and learned court bellow erred both in law and facts in deciding such fact.
40. In the light of argument put forwarded by the appellant/defendant side this court perused the settled provisions of law and it finds that the document should be original and not certified copies or registered copies. If an original document is not produced before the court and no reason is given for the non-production of the original documents the certified copies are not admissible before the court.
41. However if a copy of a document can be admitted as secondary evidence under Section 65 and is produced from proper custody and is over thirty years old then signature which authenticates the document may be presumed as genuine but this does prove the execution of the document. Certified copies are admissible if the original document is in the possession

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of the opposite party. Certified copies are also admissible to prove contents of the original if the original copy is lost.

42. In this case the defendant failed to state proper reasons for non-production of the original document of sale deed no-522 of 1955. The defendant merely submitted one certified copy of the document as Ext-Ka and same was obtained by the defendant in the year 2009. The defendant before adducing the secondary form of said alleged sale deed as Ext.Ka did not obtained any leave from the court and even failed to explain the proper custody of the document.
43. During the time of argument learned advocate appearing on behalf of the defendant/appellant submitted that original of the sale deed no-522 of 1955, retained by the plaintiffs/respondents being the legal heirs of Nirmal Chandra Dev. If the plea of defendant/appellant's counsel appears to be tenable or sustainable, then why the defendant/counter claimant failed to submit any prayer before trial court asking the plaintiffs to produce the original sale deed before this court. That is not clear before this court.
44. A secondary forms of evidence required to be adduced before a court on complying certain procedures and in this case none of those procedures were complied with by the defendant side. The learned court bellow rightly referred the case law styled as **Shital Das Vs. Sant Ram, AIR 1954 SC 606**, where it was held that language of section-90 required the production of a particular document in regard to which the court is invited to make the statutory presumption. If the document produced is a copy, admissible as secondary evidence under section-65 of Evidence Act and is produced from proper custody and is over the 30 years old then only the signature authenticating the copy may be presumed to be genuine; but production of a copy is not sufficient to raise the presumption of the due execution of the original."
45. In this case Ext-Ka document is the certified copy of original sale deed and certified copy of the said deed obtained in the year 2009 and as such it is clear that Ext-Ka being a certified copy not appears to be more than 30 years old. Undoubtedly, the original sale was of the year 1955 and same was not submitted or exhibited before this court. The questions of presumption

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would have raised in the event of filing the original of Ext-Ka document and none exhibiting the original copy does not mandates the court to draw presumption in view of section-90 of Indian Evidence Act. Hence, applying the ration of above said case law, this court finds that no circumstances arisen before this court upon which this court may presume the documents to be genuine in view of section-90 of Evidence Act.

46. It is well settled provisions of law that mere production of document in the form of certified copy does not dispense the proof of its execution. The defendant/appellant during the trial before this court failed to prove the proper execution of the document.
47. The plaintiffs/respondents in this case claimed their possession over the suit land since from long time and per contra defendant/counter claimant claimed that plaintiffs dispossessed the defendant from the suit land in the year 2011. That indicates, if the defendant had been in possession over the suit land since the year 1968 or 1971 as alleged in the written statement till the year 2011 i.e. till dispossessed from the suit land, then what prevents the defendant to obtain mutation certificate over the suit land. In this case the pleadings of plaintiffs and defendant makes it clear that defendant filed petition for mutation of her name over the suit land in the year 2009. This court failed to understand what prevents the defendant to approach the settlement authority to get her name mutated over the suit land if the defendant really purchased the suit land in the year 1968 and 1971 through two different sale deed.
48. Another pertinent question disclosed in respect source of title of defendant vendor Nirmal Chandra Dev. If really said vendor had purchased the suit land in the year 1955 from the original owner of the suit land, then what prevents the said vendor to get his name mutated over the suit land till the year 1968 or 1971 and till the year he sold the suit land in favour of the defendant. In this case the defendant failed to adduce any mutation entry in the name of her vendor to substantiate the plea of ownership of her vendor.
49. Therefore in the light of all the above said discussions, this court finds that Suraj Bala Devi never sold the suit land to Nirmal Chandra Dev vide sale

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deed no-522 of 1955. Accordingly, issue no-2 is answered in negative and against the defendants.

ISSUE NO. 5

50. Issue No-5:- **Whether the Sale Deed No.3382/ 1986 and Sale Deed No.105/ 1971 made in favour of counter claimant is valid and enforceable in law?** The defendant/counter claim in his written statement categorically pleaded that the original owner of the suit property sold out the suit land in favour of the plaintiff's predecessor Nirmal Ch. Dev in the year 1955 vide registered sale deed No.522 of 1955 and subsequently the plaintiff's predecessor Nirmal Ch. Dev vide registered Sale Deed No.3382/ 1986 and Sale Deed No.105/ 1971 sold out the suit property and since the day of purchase the defendant has been in possession over the suit land till the month of July/2011 and subsequently, the defendant was dispossessed by the plaintiff from the suit B schedule land of the plaint.
51. As such, it is seen from the pleadings of the defendant/counter claimant that entire claim of right, title and interest over the suit A as well as suit B schedule land of counter claimant rests upon the sale deed executed by the original owner Suraj Bala Devi in favour of Nirmal Ch. Dev and subsequently Nirmal Ch. Dev executed two nos. of registered sale deed in the year 1968 and 1971 in favour of the defendant.
52. Per contra, the plaintiff's side had denied that their predecessor ever purchased the suit property from Suraj Bala Devi and further their father never executed any of those sale deeds in favour of the defendants. In the light of discussion and decision of Issue No.2 it has been crystal before this court that defendant/counter claimant has failed to prove proper execution of registered sale deed No.522 of 1955 by the plaintiff's predecessor Nirmal Ch. Dev in favour of the defendant and in this case, the defendant's source of title over the suit property appears to be registered sale deed No.522 of 1955 that allegedly executed by the plaintiff's predecessor Nirmal Ch. Dev in favour of the defendant over the suit property. It has already been held that the defendant/counter claimant failed to prove the proper execution of registered sale deed No.522 of 1955, as such no valid title can be transferred on the basis of registered sale deed No.522 of 1955

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subsequently in the year 1968 and 1971 by the plaintiff's predecessor Nirmal Ch. Dev in favour of the defendant.

53. Although the defendant/counter claimant during the time of trial of T.S No.31/13 examined one official witness as DW-6 who has deposed before this court in respect of Ext. Kha and Ga registered sale deed vide No.3382 of 1968 and 105 of 1971. Proper execution of both the deeds have not been proved and even if we consider that both the deeds are appears to be proved before this court, the same deeds cannot be considered to be enforceable in law as the title of the vendor of those deeds based upon the proper execution of registered sale deed No.522 of 1955 and such execution of deed stands not proved.
54. The plaintiff side exhibited several documents showing that name of Suraj Bala Devi stands recorded over the suit property till her death. Ext. 1, Ext.2, Ext.3 and Ext.4, Ext.5 are appears to be proof of the fact that the name of the true owner of the suit property Suraj Bala Devi has duly recorded over the suit property and after her death in the year 2000, the name of the present plaintiffs namely, Ravi Ch. Dev, Nandan Dev, Sanjay Dev, Bandhan Dev, Chandan Dev, and Himangshu Dev, sons of Nirmal Ch. Dev, were duly recorded over the suit property. Ext.7 is the proof of said facts.
55. In Issue No.2 it has been decided that proper execution of Ext. Ka has not been proved and as such the plaintiff's predecessor Nirmal Ch. Dev cannot transfer any property in the year 1968 and 1971 by executing two nos. of registered sale deeds on the basis of Ext. Ka sale deed.
56. Hence, in the light of aforesaid discussion, this court is of considered opinion that the sale deed No.3382/ 1986 and Sale Deed No.105/ 1971 of the year 1968 and 1971 is not enforceable in law and accordingly Issue No.5 is answered in negative and against the defendant/counter claimant. Consequent to that the decision and finding of learned court below not interfered with and upheld.

ISSUE NO. 3 & ISSUE NO. 6

57. Both the issues are co-relates with each other as such both were taken together for discussion and decision. Issue No.3 relates to a pertinent question as to whether the plaintiffs are entitled to declaration of right, title

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and interest over the schedule B land. And Issue No.6 relates to whether the counter claimant is entitled to declaration of right, title and interest over the schedule B land? Discussion and decision of Issue No.3 shall decide the fate of Issue No.6 as such both were taken together for discussion and decision. In the forthcoming discussions we shall try to ascertain as to whether the discussion and decision of Ld. Munsiff No.2, Sonitpur in respect of both the issues are in accordance with the settled provisions of law as well as facts.

58. At the outset, this court desires to mention here that in light of discussion and decision of issue No.2 this court has decided that defendant /counter claimant failed to prove proper execution of registered sale deed No.522 of 1955 and successively it is further held in Issue No.5 that the registered sale deeds prepared and executed in the year 1968 and 1971 based on the registered sale deed No.522 of 1955 are not enforceable in law. As such upon the above, it can be safely concluded her that the defendant/counter claimant has no right, title and interest over the suit property on the strength of registered sale deed No.3382/ 1986 and Sale Deed No.105/ 1971 of the year 1968 and 1971.
59. Now, coming to the possession of the defendant till the month of July/2011 and dispossession of the defendant from the suit property by the plaintiff, this court seen that defendant/appellant in her written statement claimed that in the year 2011 plaintiffs took forceful possession of the suit land. The defendant in para No.5 of the counter claim pleaded that the defendant was in uninterrupted possession over the suit land till the year 2010 and she in her cross-examination specified that she has not lodged any complaint in the police station regarding such alleged forceful possession in the year 2011. Hence, it is seen that the defendant in different stages has disclosed three different period of taking forceful possession of the suit property by the plaintiffs/respondents and that unveiled reasonable doubt and misperception over the trustworthiness of the statement put forwarded by the defendant.
60. In addition, it is relevant to mentioned that Ext.5 shows that the land in question stands mutated in the name of the plaintiffs/respondent which further support the case of the plaintiffs/respondents. The defendant to counter it stated that on 07-03-2011 Circle Officer, Dhekiajuli, Sonitpur,

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Tezpur gave an observation in Misc. (J) case No.1/2009-2010 that mutation in the name of the plaintiff and Proforma defendants are illegal and suspicious but since he has no power to cancel the said mutation, he vide his order dated 07-03-2011 sought recommendation of the Addl. Deputy Commissioner, Sonitpur, Tezpur and forward the case record vide letter No.DRC 6/2006/07/PART 347 dated 21-04-2011. Accordingly, the Addl. Deputy Commissioner 7/2007/PART 282 dated 28-07-2011 accorded necessary section and directed the Circle Officer for cancellation of the illegal mutation of the plaintiffs and Proforma defendant. However, the Circle Officer has not yet submitted the action taken report to the Addl. Deputy Commissioner. To prove aforesaid contentions the defendant/appellant has not adduced any forms evidence. The observation of Circle Officer over the mutation entries does not operates automatic cancel of the mutation of names of plaintiffs/respondents over the suit land.

61. Therefore, in the light of above said discussion, this court finds that defendant/counter claimant failed to prove her right, title and interest over the suit property. Per contra, the plaintiff to prove their right, title and interest over the suit land positively adduced both ocular and documentary forms of evidences.
62. I have carefully travelled through the oral as well documentary forms of evidences and from where it disclosed that the documentary forms of evidences like Ext.2, Ext.4, Ext.4 and Ext.5 makes it categorical before this court that original owner of the suit property was one Suraj Bala Devi. Ext.6 disclosed and supports the plea that the plaintiffs have received the notice of Mutation Case No.152/08-09 that was instituted by the defendant for mutation of her name over the suit property. Ext.7 supports and establishes that after death of Suraj Nalini Devi alias Suraj Bala Devi, the names of plaintiffs were duly recorded over the suit property. Ext. 13(Series) supports the fact paying revenue of the suit land by the plaintiff's/respondent side. The oral evidence of PW-1, PW-2 and PW-3 maintained and documented the fact that in the year 2000 Suraj Bala Devi died and after her death the names of the plaintiffs were duly recorded over the suit property. Subsequently, in the year 2007 names of the plaintiffs were recorded over

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the suit land. If land in question purchased by the defendant /counter claimant in the year 1968 and 1971 then her name must have recorded in the record of right. It is surprising that a purchaser who claimed that she has purchased the suit property in the year 1968 and 1971, but approached the Circle Officer, Dhekiajuli to get her name recorded in the record of right in the year 2009, that creates reasonable doubt over the pleadings of the defendant/counter claimant. The defendant/counter claimant further failed to prove her possession over the suit property till the month of July 2011.

63. Learned advocate appearing on behalf of the defendant / counter claimant during the time of argument emphatically argued that the record of right stands in the name of the plaintiffs/respondents does not confer any right, title and interest and he referred one judgment of our Hon'ble parent High Court that referred as **2015 (5) GLT 30**, where it has been decided that mutation entries is for the purpose of enabling the State to collect the revenue but it does not confer title to the land.
64. I have carefully travelled through the judgment referred by the Ld. Counsel appearing on behalf of the defendant /counter claimant and it finds that the factual matrix of this case does not tally with the factual matrix of the case referred before this court. In that case the question before the Hon'ble High Court was that plaintiff although claimed that he had purchased the property, but failed to produce any title document. In the instant case in hand, it is the claim of the plaintiffs that they have inherited the property of Suraj Bala Devi after her death as she died issueless and their names have been recorded in the said land. Undoubtedly, the rent receipts does not confer any title deed but the Jamabandi in respect of Khiraj Miyadi Patta also considered to be a document of title in absence of any specific ownership document. In this case there no chance of production of any sale deed in their name by the plaintiffs, as they pleaded that said property was inherited by them and subsequently their names have been duly recorded over the suit land and Ext. 5 Jamabandi of Khiraj Miyadi Patta appears to be proof of their mutation entries and that confers title over the suit land and consequent to that the point of argument put forwarded by the defendant's counsel stands discarded.

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65. Now coming the Jamabandi exhibited before this court by the plaintiffs/respondents I would like to refer on celebrated Judgment of our Hon'ble parent Gauhati High Court. **In AMIYA BALA DUTTA. --VS-- MUKUT ADHIKARI and ORS. RESPONDENTS. 998 (4) GLT 137** our parent Hon'ble High Court held in para no-7:-

"Under the Assam Land and Revenue regulation a person who is a patta holder is deemed to be a land holder and he has permanent, heritable and transferrable right of use and occupancy in his land subject to section 9 of the Assam Land and Revenue regulation and if a person in order to establish his title produces a patta that must be given due weightage inasmuch as a patta its issued in accordance with the provisions of Section 17 read with the Rules and that must lie considered to be a document of title and this is always considered to be a document of title. Further that record of rights as provided under Section 40 and 41 of the Assam Land and Revenue regulation shall always be deemed to be the correct unless the contrary is proved and that presumption which is attached to the record of rights under Sections 40 and 41 must be given due weightage and that is what was done by the learned lower appellate court. Regarding mutation entries it can be said that though the mutation entries may not be the basis of title yet that mutation entries cannot be brushed aside and it must receive due consideration at the hand of the court. Of course, it must be ascertained that the mutation entries were done properly. If it is found that the mutation entries was not done properly and/or if it is collusive and fraudulent, that mutation entries will not create any right. The Hon'ble Gauhati High Court in the said judgment upheld the judgment of first appellate court decreeing the suit of the plaintiff upon mutation entries like Jamabandi."

66. Consequent to that the defendant went up to the Hon'ble Supreme Court and thereafter Hon'ble Supreme Court upheld the judgment of Hon'ble parent high court vide its judgment and order dated-23/02/2011, referred as LAWS(SC)-2011-2-114.

67. Hence, from the ratio of our Hon'ble parent High court as well the findings of Hon'ble Apex Court postulates that Revenue Authority mutated records of land holders in Jamabandi only after being satisfied that claimant has prima facie title and that he is in possession of the land in question. Record of rights as provided under Section 40 and Section 41 of the Assam Land and

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Revenue Regulation shall always be deemed to be the correct unless the contrary is proved and that presumption which is attached to the record of rights under Sections 40 and 41 must be given due weightage.

68. Arriving again to this case in hand this court already perceived from the evidences on record that Plaintiffs/respondents prayed declaration of their right, title and interest over the suit land and to prove their claim plaintiff exhibited certified copies of Jamabandi as Ext-1, Ext-2, Ext-3, Ext-4, and Ext-5 & Ext-7. On contrary the defendant/appellant side failed to establish anything contrary against the mutation entries of the plaintiffs/respondents. The defendant/appellant further failed to dismantle the credence of the record of right exhibited before this court by the plaintiffs/respondents. The defendant/appellant further failed to prove that till the month of July 2011, she was under possession over the suit land.
69. Therefore in the light of all the above said discussions, this court finds that plaintiffs exhibited documents like Jamabandi deserves due weightage and presumption may be drawn in favour of the plaintiff/respondents in respect of their right, title and interest over the suit land.
70. It is further seen that defendant / counter claimant claimed that she possessed the suit land through Adhiyar but she failed to examine any of the "Adhiyar" before the court. Therefore, in the light of aforesaid discussion if we compare the evidences presented by the plaintiffs and the defendant / counter claimant the balance of probability favours the case of plaintiffs/respondents and that is sufficient to turn the scale in favour of the plaintiffs. Hence, in the light of aforesaid discussion, this court finds that plaintiffs/respondents have right, title and interest over the suit property and defendant/appellant being the counter claimant failed to prove her right, title and interest over the suit land. Accordingly, Issue No.3 is answered in affirmative in favour of the plaintiff and Issue No.6 is answered in negative and against the counter claimant. The discussions and decisions of learned court below does not require any interference from this first appellate court. Hence, the decision of learned court below is upheld.

ISSUE NO. 1

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71. During the time of argument hearing of this first appeal, the learned advocate appearing for defendant/counter claimant strenuously argued that suit is bad for non-joinder of Himangshu Dev. It is true that Id. Munsiff No.2, Sonitpur in discussing Issue No.1 observed that defendant has not lead any evidence to prove the same and accordingly decided the issue in negative. The defendant in his written statement in para No.4 categorically pleaded that plaintiff's elder brother Himangshu Dev is a necessary party. If we meticulously peruse the Ext.7 document that exhibited by the plaintiff it divulges before the court that name of one Himangshu Dev also recorded in the suit property along with the plaintiffs and plaintiffs in explaining the fact not of impleading Himangshu Dev as party to the suit stated that whereabouts of Himangshu Dev is not known since last 8 years so he is presumed to have died. The defendant side failed to dismantle the credibility of the plaintiff's witnesses.
72. As such it is seen that one of the co-sharers of the suit property named Himangshu Dev not impleaded in the suit. Now the question is whether non-impleading said Himangshu Dev operates the suit bad for non-joinder of necessary party? In this case, admittedly the plaintiffs have not impleaded said Himangshu Dev as a party to the suit and further claimed right, title and interest over the suit property. If the court passes any decree of declaration of right, title and interest of the suit property of five nos. of plaintiffs excluding Himangshu Dev, the interest of Himangshu Dev over the suit property is definitely going to be affected and the plaintiffs contended that whereabouts of his brother Himangshu Dev is not known since last 8 years so he is presumed to have died. In that circumstances this court has every jurisdiction to pass a decree of declaration of right, title and interest over the suit property even though said Himangshu Dev not impleaded as party, as the right of said person will be protected if such declaration is made by the court even of his absence. The plaintiffs/appellant failed to explain or establish the death of said Himangshu Dev or whereabouts of said person for about 8 years by adducing cogent evidence. In the same time in absence of that person if the decree is passed his interest over the land in question is going to be affected.

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73. Therefore in the light of above said discussions, this court is of considered opinion that in the event the suit is going to decreed in favour of the plaintiffs by declaring their right, title, interest and confirmation of possession over the suit land including the said Himangshu Dev, the suit will not be bad for none joinder of necessary parties. Hence, this issue No.1 answered in affirmative and in favour of the plaintiff and consequent to that the discussion and decision of Ld. Trial court below not interfered with and upheld.

ISSUE NO. 9

74. In the light of discussions and decision of issue No.1, Issue No. 9 turn out to be out of a job, as the plaintiffs pleaded that counter claim is bad for non-joinder of necessary parties upon the same plea of non-joinder of said Himangshu Dev.

ISSUE NO. 4

75. **Issue No.4** relates to the relief of the plaintiffs suit. From the discussion and decisions of issue Nos. 2, 3, 5 and 6 this court finds that plaintiffs are entitled to get declaration of their right, title and interest and confirmation of possession over the suit property along with other consequential reliefs. Accordingly, Issue No.4 is answered in affirmative in favour of the plaintiffs and consequent to that discussion and decision of Ld. Trial court below is upheld.

ISSUE NO. 7

76. In the light of discussion and decision of Issue No.4, the counter claimant is not entitled to get any relief. Accordingly, Issue No.7 is answered in negative and against the counter claimant.

ISSUE NO. 8

77. In the light of discussion and decision of Issue No.4, plaintiffs are entitled to get the reliefs as prayed for. Hence, issue no-8 answered in affirmative and in favour of the plaintiffs/respondents.

78. In the result, this court finds that the Id. Trial court below has not committed any error both in law and facts in decreeing the suit of the plaintiff/respondent and dismissing the counter claim of the defendant/appellant with cost. However, the judgment pronounced by the

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Ld. Trial court is marginally modified by declaring the right, title and interest of the plaintiffs along with their elder brother Himangshu Dev over the suit property. Accordingly, this court upheld the judgment of the Id. Trial court below by passing the following decree :

- (i) Plaintiffs including Himangshu Dev are entitled for a decree of their right, title and interest and confirmation of possession over B schedule land;
- (ii) A decree of permanent injunction is also passed against the defendant /counter claimant prohibiting him not to disturb and interfere over the B schedule land.
- (iii) Plaintiffs are entitled to get the cost.

79. Prepare a decree accordingly. The appeal is dismissed on contest with cost.

80. Send down the Case Record, along with a copy of this judgment to the Id. Court. Given under my hand & seal of the Court on the 28th May' 2019.

(N. J. Haque)

Civil Judge
Tezpur, Sonitpur

Dictated and corrected by me.

(N. J. Haque)

Civil Judge
Sonitpur, Tezpur

Dictation taken and

Transcribed by me:

(J. K Muru), Steno.

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ANNEXURE

Plaintiff Witnesses:

i	PW-1	:	Sri Ravi Ch. Dev
ii	PW-2	:	Sri Bandhan Dev
iii	PW-3	:	Sri Sanju Dev
iv	PW-4	:	Sri Narayan Dev
v	PW-5	:	Sri Babul Dey
vi	PW-6	:	Sri Dulal Dutta
vii	PW-7	:	Sri Padmeswar Boro

Plaintiff Exhibits:

i	Ext.1	:	Photostate copy of Kucha Patta No.64 of village – Erasuti Jungal, Mouza- Bargaon in the name of Suraj Nalini Devi
ii	Ext.2	:	Copy of certified copy of Jamabandi of PP No.76 of village–Erasuti Jungal, Mouza- Bargaon
iii	Ext.3	:	Copy of Khiraj patta being No.81 of village– Erasuti Jungal, Mouza- Bargaon in the name of Suraj Nalini Devi @ Suraj Bala Devi
iv	Ext.4	:	Copy of sale deed No.241 for the year 1951 in the name of Suraj Nalini Devi
v	Ext.5	:	Copy of certified copy of Jamabandi of PP No.81 of village–Erasuti Jungal, Mouza-Bargaon
vi	Ext.6	:	Copy of notice of Mutation case No.152/08-09
vii	Ext.7	:	Copy of mutation certificate in the name of plaintiffs
viii	Ext.8	:	Copy of trace map
ix	Ext.9	:	Copy of certificate issued by Gaonburah regarding the death of Suraj Nalini Devi @ Suraj Bala Devi
x	Ext.10	:	Copy of certificate issued by Gaonburah regarding the death of Bimal Ch. Dev
xi	Ext.11	:	Copy of certificate issued by Gaonburah
xii	Ext.12	:	Copy of death certificate of Nirmal Ch. Dev
xiii	Ext.13	:	Copy of land revenue paid receipts (16 numbers)
xiv	Ext.14	:	Copy of certified copy of sale deed no.3382 for the year 1968 of Tezpur Sub-Registry office.
xv	Ext.15	:	Copy of certified copy of sale deed no.105 for the year 1971 of Tezpur Sub-Registry office.

Defendant Witnesses:

i	DW-1	:	Smt. Nalini Saikia
ii	DW -2	:	Sri Putul Nath
iii	DW -3	:	Sri Dimchand Bordoloi
iv	DW -4	:	Smt. Khiteswari Devi

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v DW -5 : Sri Subrata Lodh
vi DW -6 : Sri Maidul Islam
vii DW -7 : Sri Amiyo Kr. Roy

Defendant Exhibits:

i Ext.Ka : Photo copy of registered sale deed No.522 of 1955 of Tezpur Sub-Registry Office
ii Ext.Kha : Photo copy of registered sale deed No.3382 of 1968 of Tezpur Sub-Registry Office
iii Ext.Ga : Photo copy of registered sale deed No.105 of 1971 of Tezpur Sub-Registry Office
iv Ext.Ja : Photo copy of old Jamabandi of PP No.81 of village–Erasuti Jungal, Mouza-Borgaon
v Ext.Gha : Photo copy of land revenue receipts
vi Ext.Sha : Photo copy of CTC of Addl. Deputy Commissioner letter No. SRK-7/2007/Part/282
vii Ext.Cha : Photo copy of CTC of Circle Officer, Dhekiajuli letter dated 21-04-2011
viii Ext.Unga : Photo copy of CTC of Circle Officer, Dhekiajuli letter dated 07-03-2011 in Misc. Case No.1/2009-2010
ix Ext.Da & Da(1) : Photo copy of book 1 Volume No.11(73) and its contents
x Ext. Ta & Ta(1) : Photo copy of book 2 and its contents
xi Ext. Tha & Tha(1) : Photo copy of book 1 Volume No.23 of the year 1969 and its contents
xii Ext. Dha & Dha(1) : Photo copy of the book of Erasuti Jungle Gaon, Mouza – Borgaon and its contents with dag No.30
xiii Ext. Neo & Neo(1) : Photo copy of Jamabandi book and its contents with PP No.81 (new)
xiv Ext. Na & Na(1) : Photo copy of Jamabandi Book and its contents with PP No.81 (new)
xv Ext. Jha & Jha(1) : Photo copy of order sheet issued from Circle Office, Dhekiajuli

(N. J. Haque)

Civil Judge
Tezpur, Sonitpur