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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/3568/2019

ON THE DEATH OF IBRAHIM, HIS HEIRS AND REPRESENTATIVES MUSST.
RABIA KHATUN AND 25 ORS.

W/O- LATE IBRAHIM ALI, R/O- VILL.- TATIKATA, MOUZA AND P.S.
MAIRABARI, DIST.- MORIGAON, ASSAM, PIN- 782126.

2: MD. NUR ISLAM
S/O- LATE IBRAHIM ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

3: NURUL ZAMAN
S/O- LATE IBRAHIM ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

4: MD. NURUDDIN @ NURUDDIN AHMED
S/O- LATE IBRAHIM ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

5: MUSST. AISHA KHATUN
D/O- LATE IBRAHIM ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON

ASSAM
PIN- 782126.

6: MUSSTT. KALIMA @ SOFIA KHATUN
D/O- LATE IBRAHIM ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

7: ON THE DEATH OF ISHA HAQUE @ ISHA HAQUE ALI
HER LEGAL HEIRS MD. ABUL KALAM
S/O- LATE ISHA HAQUE ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

8: MD. ABUL HUSSAIN
S/O- LATE ISHA HAQUE ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

9: MD. AZIJUL HAQUE
S/O- LATE ISHA HAQUE ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

10: MUSST. HAZERA KHATUN
W/O- ABDUL KADIR
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

11: MUSST. SALEMAN NESSA
W/O- FAIZUDDIN
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI

DIST.- MORIGAON
ASSAM
PIN- 782126.

12: MUSST. JAHURA KHATUN
W/O- ISHA HAQUE ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

13: MUSST. MEHERA KHATUN @ MINARA KHATUN
D/O- LATE ISHA HAQUE @ ISHAK HAQUE ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

14: MUSST. BIMALA KHATUN
D/O- LATE ISHA HAQUE @ ISHAK HAQUE ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

15: ON THE DEATH OF YAKUB ALI
HIS LEGAL HEIRS MD. SAHIDUL ISLAM
S/O- YAKUB ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

16: MD. SAFIQUUL ISLAM @ SAHMUDULLAH
S/O- LATE YAKUB ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

17: MD. ABDULLAH
S/O- LATE YAKUB ALI
R/O- VILL.- TATIKATA

MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

18: MD. MOKHMOD ULLAH
S/O- LATE YAKUB ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

19: MUSST. FATEMA KHATUN
D/O- LATE YAKUB ALI
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

20: ON THE DEATH OF MUSST. JAYANA KHATUN
HER LEGAL HEIRS
REPRESENTED BY-

20.1: REBINA KHATUN
D/O- LATE MUSST. JAYANA KHATUN@TOHINA KHATUN
R/O- VILL.- BERBERI
P.O.- BATODROBA
DISTRICT- NAGAON
ASSAM.

20.2: SHAMIM AHMED (MINOR)
S/O- LATE MUSST. JAYANA KHATUN@TOHINA KHATUN
R/O- VILL.- BERBERI
P.O.- BATODROBA
DISTRICT- NAGAON
ASSAM.

20.3: JOHIRUL ISLAM (MINOR)
S/O- LATE MUSST. JAYANA KHATUN@TOHINA KHATUN
R/O- VILL.- BERBERI
P.O.- BATODROBA
DISTRICT- NAGAON
ASSAM.

21: ON THE DEATH OF AMENA KHATUN
HER LEGAL HEIRS MD. ANSER UDDIN @ ANSARUDDIN KHAN

S/O- LATE MUSHARAF ALI
R/O- VILL.- TENGAKARI
MOUZA AND P.S. LAHORIGHAT
DIST.- MORIGAON
ASSAM
PIN- 782127.

22: MD. ANISUR ROHMAN @ ANISUDDIN KHAN
S/O- LATE MUSHARAF ALI
R/O- VILL.- TENGAKARI
MOUZA AND P.S. LAHORIGHAT
DIST.- MORIGAON
ASSAM
PIN- 782127.

23: MUSTT. NURJAHAN
D/O- LATE MUSHARAF ALI
R/O- VILL.- TENGAKARI
MOUZA AND P.S. LAHORIGHAT
DIST.- MORIGAON
ASSAM
PIN- 782127.

24: STRUCK OFF
VIDE ORDER DATED 30/10/2024

25: MD. AYUB ALI
S/O- LATE ISMAIL KHAN
R/O- VILL.- DALBARI
MORIGAON
P.O. AND P.S. MORIGAON
DIST.- MORIGAON
ASSAM
PIN- 782126.

26: ON THE DEATH OF MUSST. MARIAM NESSA
HIS LEGAL HEIRS
NAMELY

26.1: NUR MAHAMMAD
S/O MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE KANDHULIMARI
P.O. MITHAPUKHURI
DIST. NAGAON
ASSAM
PIN 782124.

26.2: TOFAZUL HUSSAIN

S/O MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE KANDHULIMARI
P.O. MITHAPUKHURI
DIST. NAGAON
ASSAM
PIN 782124.

26.3: LOKMAN HAKIM
S/O MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE KANDHULIMARI
P.O. MITHAPUKHURI
DIST. NAGAON
ASSAM
PIN 782124.

26.4: SALEHA KHATUN
D/O LT. MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE FARHANIATI
JURIA
MOUZA JURIA
DISTRICT NAGAON
ASSAM.

26.5: SAJIDA KHATUN
D/O LT. MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE ROWMARIPAM
P.S. AND MOUZA JURIA
ASSAM
DISTRICT. NAGAON
ASSA

VERSUS

MD. HAMED ALI AND 27 ORS.
S/O- LATE ISMAIL KHAN, R/O- VILL.- MAIRABARI, MOUZA AND P.S.
MAIRABARI, DIST.- MORIGAON, ASSAM, PIN- 782126.

3:MD. ABDUL SATTAR
S/O- LATE ABBAS ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

4:MD. ABDUL AJIJ
S/O- LATE ABBAS ALI
R/O- VILL.- MAIRABARI

MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

5:MD. ABDUL BARIK
S/O- LATE ABBAS ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

6:MD. ABDUL HAMED
S/O- LATE ABBAS ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

10:MD. SAMED ALI
S/O- LATE ABDUL RAHIM
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

13:MD. SATTAR ALI
S/O- LATE ABDUL RAHIM
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

19:MD. MAFIZUL ISLAM
S/O- LATE IBRAHIM
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

20:MD. ABDUL JALIL
S/O- LATE IBRAHIM
R/O- VILL.- MAIRABARI

MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

21:HABIBUR RAHMAN
S/O- LATE IBRAHIM
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

22:MD. MUJIBUR RAHMAN
S/O- AINUDDIN
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

23:MD. HABIBUR RAHMAN
S/O- AINUDDIN
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

24:MD. AHAMMAD ALI
S/O- HAZI SIRAJ ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

25:MD. MAHAMMAD ALI
S/O- HAZI SIRAJ ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

26:MD. AYUB ALI
S/O- HAZI SIRAJ ALI
R/O- VILL.- MAIRABARI

MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

27:MD. ABDUL SALAM
S/O- AINUDDIN
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

28:MD. NURUL HAQUE
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126

Advocate for the Petitioner : MR. J AHMED, MS A HUSSAIN,MS G PARMAWI,MR G BHARADWAJ,MRS R BEGUM

Advocate for the Respondent : MR. A J SARMA, MR G ALAM,MR. S K GHOSH

Linked Case :

ON THE DEATH OF IBRAHIM HIS HEIRS AND REPRESENTATIVES MUSST.
RABIA KHATUN AND 25 ORS

VERSUS

MD. HAMED ALI AND 29 ORS

Advocate for :

Advocate for : appearing for MD. HAMED ALI AND 29 ORS

Linked Case :

ON THE DEATH OF IBRAHIM HIS HEIRS AND REPRESENTATIVES MUSST.
RABIA KHATUN AND 25 ORS

VERSUS

MD. HAMED ALI AND 29 ORS

Advocate for :

Advocate for : appearing for MD. HAMED ALI AND 29 ORS

Linked Case : I.A.(Civil)/3437/2022

ON THE DEATH OF MUSSST MARIAM NESSA AND HER LEGAL HEIRS
NUR MAHAMMAD
S/O MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE KANDHULIMARI
P.O. MITHAPUKHURI
DIST. NAGAON
ASSAM
PIN 782124.

2: TOFAZUL HUSSAIN
S/O MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE KANDHULIMARI
P.O. MITHAPUKHURI
DIST. NAGAON
ASSAM
PIN 782124.

3: LOKMAN HAKIM
S/O MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE KANDHULIMARI
P.O. MITHAPUKHURI
DIST. NAGAON
ASSAM
PIN 782124.

4: SALEHA KHATUN

D/O LT. MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE FARHANIATI
JURIA
ASSAM.

5: SAJIDA KHATUN
D/O LT. MUSSST MARIAM NESSA AND LATE SAN MAMUD
R/O VILLAGE ROWMARIPAM
P.S. AND MOUZA JURIA
ASSAM
DISTRICT. NAGAON
ASSAM
VERSUS

MD. HAMED ALI AND 28 ORS.
S/O- LATE ISMAIL KHAN
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

2:MD. KODOM ALI
S/O LATE AKTAR ALI
R/O VILLAGE MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

3:MD. ABDUL SATTAR
S/O LATE ABBAS ALI
R/O VILLAGE MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

4:MD. ABDUL AJIJ
S/O LATE ABBAS ALI
R/O VILLAGE MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

5:MD. ABDUL BARIK
S/O LATE ABBAS ALI
R/O VILLAGE MAIRABARI
DIST. MORIGAON
ASSAM

PIN 782126.

6:MD. ABDUL HAMED
S/O LATE ABBAS ALI
R/O VILLAGE MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

7:MD. AINUDDIN
S/O LATE MOTAB ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

8:MD. MAHAMMAD ALI
S/O LATE ABDUL RAHIM
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

9:MD. AHAMMAD ALI
S/O LATE ABDUL RAHIM
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

10:MD. SAMED ALI
S/O LATE ABDUL RAHIM
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

11:MD. REJAK ALI
S/O LATE ABDUL RAHIM
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

12:HAMID ALI
S/O LATE ABDUL RAHIM
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

13:MD. SATTAR ALI

S/O LATE ABDUL RAHIM
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

14:ABDUL BARIK
S/O LATE AMZAT ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

15:ABDUL HYE
S/O LATE AMZAT ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

16:ABDUL KARIM
S/O LATE AMZAT ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

17:ABDUL MANNAN
S/O LATE AMZAT ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM

PIN 782126.

18:MUSST. HAZERA KHATUN
D/O LATE AMZAT ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

19:MD. MAFIZUL ISLAM
S/O LATE IBRAHIM ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

20:MD. ABDUL JALIL
S/O LATE AMZAT ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

21:HABIBUR RAHMAN
S/O LATE AMZAT ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

22:MD. MUJIBUR RAHMAN
S/O AINUDDIN
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

23:MD. HABIBUR RAHMAN
S/O AINUDDIN
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM

PIN 782126.

24:MD. AHAMMAD ALI
S/O HAZI SIRAJ ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

25:MD. MAHAMMAD ALI
S/O HAZI SIRAJ ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

26:MD. AYUB ALI
S/O HAZI SIRAJ ALI
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

27:MD. ABDUL SALAM
S/O AINUDDIN
R/O VILLAGE MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

28:MD. NURUL HAQUE
S/O LATE IBRAHIM ALI
R/O VILLAGE TATIKATA
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM
PIN 782126.

29:MUSST. JUBEDA KHATUN
W/O LATE YAKUB ALIALI
R/O VILLAGE TATIKATA
MOUZA AND P.S. MAIRABARI
DIST. MORIGAON
ASSAM

PIN 782126.

Advocate for : MR. J AHMED

Advocate for : MR. A J SARMA appearing for MD. HAMED ALI AND 28 ORS.

Linked Case : I.A.(Civil)/612/2024

ON THE DEATH OF YUNUS ALI @ INNAS ALI HIS LEGAL HEIRS HASINA
BEGUM AND ORS
W/O LATE MD. YUNUS ALI

R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

2: ASHIQUE ELAHI
S/O LATE MD. YUNUS ALI

R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

3: MD. OLI ULLAH
S/O LATE MD. YUNUS ALI

R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

4: UBAIDULLAH KHAN
S/O LATE MD. YUNUS ALI

R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.
VERSUS

MD. HAMED ALI AND ORS.

S/O- LATE ISMAIL KHAN
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

2:MD. KODOM ALI

S/O LATE AKTAR ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

3:MD. ABDUL SATTAR
S/O- LATE ABBAS ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

4:MD. ABDUL AJIJ
S/O- LATE ABBAS ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

5:MD. ABDUL BARIK
S/O- LATE ABBAS ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

6:MD. ABDUL HAMED
S/O- LATE ABBAS ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

7:MD. AINUDDIN
S/O LATE MOTAB ALI
RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
DIST MORIGAON
ASSAM 782126

8:MD. MAHAMMAD ALI
S/O LATE ABDUL RAHIM
RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
782126

9:MD. AHAMMAD ALI
S/O LATE ABDUL RAHIM
RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
782126

10:MD. SAMED ALI
S/O- LATE ABDUL RAHIM
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

11:MD. REJAK ALI
S/O LATE ABDUL RAHIM
RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
782126

12:HAMID ALI
S/O LATE ABDUL RAHIM
RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
782126

13:MD. SATTAR ALI
S/O- LATE ABDUL RAHIM
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

14:ABDUL BARIK

S/O LATE AMZAT ALI

RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
782126

15:ABDUL HYE
S/O LATE AMZAT ALI

RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
782126

16:ABDUL KARIM
S/O LATE AMZAT ALI

RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
782126

17:ABDUL MANNAN
S/O LATE AMZAT ALI

RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
782126

18:MUSST. HAZERA KHATUN
D/O LATE AMZAT ALI

RESIDENT OF VILLAGE MAIRABARI
MOUZA AND PS MAIRABARI
782126

19:MD. MAFIZUL ISLAM
S/O- LATE IBRAHIM
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

20:MD. ABDUL JALIL
S/O- LATE IBRAHIM
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM

PIN- 782126.

21:HABIBUR RAHMAN
S/O- LATE IBRAHIM
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

22:MD. MUJIBUR RAHMAN
S/O- AINUDDIN
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

23:MD. HABIBUR RAHMAN
S/O- AINUDDIN
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

24:MD. AHAMMAD ALI
S/O- HAZI SIRAJ ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

25:MD. MAHAMMAD ALI
S/O- HAZI SIRAJ ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

26:MD. AYUB ALI
S/O- HAZI SIRAJ ALI
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM

PIN- 782126.

27:MD. ABDUL SALAM
S/O- AINUDDIN
R/O- VILL.- MAIRABARI
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

28:MD. NURUL HAQUE
R/O- VILL.- TATIKATA
MOUZA AND P.S. MAIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126.

29:MUSST. JUBEDA KHATUN
W/O LATE YAKUB ALI

RESIDENT OF VILLAGE TITIKATA
MOUZA AND PS MAIRABARI
DIST MORIGAON
ASSAM 782126

Advocate for : MR. J AHMED
Advocate for : appearing for MD. HAMED ALI AND ORS.

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

02.06.2025

Heard Mr. J. Ahmed, learned counsel for the applicants. Also heard Mr. S.K. Ghosh, learned counsel for the respondent No. 1.

2. By way of this application, the applicants is seeking condonation of delay of 379 days in filing the connected regular second appeal against the Judgment & Decree passed by the learned Civil Judge, Morigaon in Title Appeal No. 15/2016 on 28.02.2018.

3. The brief facts of the case is that the respondent No. 1 as plaintiff has filed the suit in the Court of Munsiff No. 1, Morigaon being Title Suit No. 30/2011 against the applicants and other respondents. In that suit the Trial Court by the Judgment dated 21.03.2016 dismissed the said suit on the ground that the respondent No. 1 failed to prove the execution of the sale deed that out of 8 shares the respondent No. 1 is entitled to two shares. Situated thus, the plaintiff/respondent No. 1 filed appeal being TA No. 15/2015 and the learned First Appellate Court reversed the findings of the Trial Court on the ground that the respondent No. 1 was able to prove the execution of the sale deeds and accordingly, the suit was decreed in favour of the respondent No. 1.
4. Against the aforesaid judgment and decree of the first appellate court, the present second appeal has been filed. However, while filing the present second appeal, there has been a delay of 379 days. As such, the present condonation application has been filed.
5. Mr. J. Ahmed, learned counsel for the applicants submits that the delay has been occasioned for want of knowledge as regards the Appellate Court's Judgment and Order since the applicants was not informed by the engaged counsel as regards the said judgment and decree and it was only in the end of March, 2019 when the respondent had come to measure the disputed suit land, the applicants had learnt about the same.
6. Mr. S.K. Ghosh, learned counsel for the respondent No. 1 on the other hand vehemently opposes the prayer of condonation and submits that the Lahorighat Revenue Circle has already partitioned the scheduled part of the land by giving different dags and pattas over the respective schedule lands and that no sufficient cause has been shown for the delay of 379 days except the claim made upon the engaged counsel who was not even made a party in the condonation application.
7. I have considered the submissions advanced by the learned Counsels for both the parties and also perused the material available on record.
8. Apt to refer to the grounds taken by the learned counsel for the applicants in support of the condonation application, which is reproduced hereinbelow for ready reference:-

“3. That there are delay in filling the appeal on the ground that the applicants had no knowledge of the judgment and decree dated 28-02-2018 passed against the applicants as the conducting Advocate did not inform about the disposal the first appeal. The applicants regularly met their Advocate to know about the progress of the appeal and in turn the Advocate informed that the appeal is pending for hearing. The applicants was under bonafide belief on

their engaged Advocate and waited for the decision of the appeal. That around the end of March, 2019 the principal respondent was measuring the land and on being asked told that the applicants that the applicants will be evicted soon., The applicants Immediately enquired in the Court and came to learn that the appeal was decreed on 28-02-2018 and the plaintiff also filed execution case being T. Ex. No.04/2019. The applicants went to their Advocate who refused to meet the applicants. The applicants, thereafter, meet another Advocate who instructed the applicants to obtain the certify copies and accordingly applied for the certified copy of the Judgment and decree on 01-04-2019 through Advocate's Clerk and got the delivery on 02-04-2019. The applicants, on 10-04-2019 received the copies from the Advocate's Clerk. The applicants, thereafter, went to the Advocate on 22-04-2019 who asked the applicants to bring all the relevant records and again met the Advocate on 02-05-2019 and handed over the entire file and the engaged Advocate advised to prefer a second appeal and accordingly filed the appeal 07-06-2019 after a lapse of about 379 days.”

9. It appears that the applicants by engaging a counsel have contested the first appeal preferred by the respondent No. 1. It further appears that the applicants having appointed the said counsel were of the impression that he shall keep them inform as regards the development of the appeal. It further appears that the applicants were also keeping in touch with him. However, in the end of March, 2019, when the respondents had come to measure the disputed suit land, the applicants were shocked to know about the passing of the Judgment and Decree dated 28.02.2018 by the First Appellate Court. Hence, it is apparent that the delay has occasioned solely for want of knowledge as regard the passing of the first appellate court judgment and decree. It is further apparent that the applicants were not negligence in pursuing their defence in the appeal and that the delay which has occasioned was mainly due to the fault of their engaged counsel who did not inform them as regards the judgment and decree of the first appellate court.

10. The power of condonation undoubtedly is discretionary. The grounds averred in the condonation application appears to be sufficient and bonafide. Pertinent that the applicants are not required to act as a watch dog of their counsel. As regards the argument of Mr. S.K. Ghosh, learned counsel for the respondent No. 1 as regards the partition be carried out in respect of the others, it is the specific contention of Mr. J. Ahmed learned counsel for the applicants that the execution proceeding has been stayed by the Executing Court. In support of the aforesaid submission, he places the certified copy of the Order dated 02.03.2024 passed by the Civil Judge(Jr. Division), No.1, Morigaon in connection with Title Ex. Case No. 4/2019. A perusal of which indicates that though there was no specific order of stay,

however, since the second appeal is pending, the Execution Court deemed appropriate not to proceed with the execution proceeding. A copy of the aforesaid order placed by him is kept on record.

11. In view of the foregoing, this Court in the interest of justice deems appropriate to condone the delay of 379 days. Accordingly, the delay stands condoned.

The IA stands allowed and disposed of.

12. Let Registry register the connected RSA and placed the same before this Court.

JUDGE

Comparing Assistant