

GAHC010021382026



2026:GAU-AS:2574

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

Case No. : CRP(IO)/46/2026

MANORANJAN SARMA
SON OF LATE RAMESH CHANDRA SARMA, RESIDENT OF
PATACHARKUCHI, WARD NO. 8, P.O.- PATACHARKUCHI, MOUZA- PUB-
BAJALI, P.S.- PATACHARKUCHI, DISTRICT- BAJALI, ASSAM, PIN- 781326

VERSUS

NABAJIT SARMA
SON OF LATE RAMESH CHANDRA SARMA, RESIDENT OF
PATACHARKUCHI, WARD NO. 8, P.O.- PATACHARKUCHI, MOUZA- PUB-
BAJALI, P.S.- PATACHARKUCHI, DISTRICT- BAJALI, ASSAM, PIN-781326.

Advocate for the Petitioner : MR. D CHAKRABARTY, MS D.CHAKRABARTY

Advocate for the Respondent : ,

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

20.02.2026

Heard Mr. D. Chakraborty, learned counsel for the petitioner.

2. In this petition, under Article 227 of the Constitution of India, the petitioner has

challenged the order dated 07.01.2026, passed by the learned Civil Judge (Jr. Division), Bajali, Pathsala, in Petition No.806/2025, arising out of Title Suit No.06/2022. It is to be noted here that vide impugned order dated 07.01.2026, the learned Civil Judge (Jr. Division), Bajali, Pathsala, has dismissed the petition filed by the petitioner under Order XXVI Rule 9 read with Section 151 of the Code of Civil Procedure.

3. Mr. Chakraborty, learned counsel for the petitioner submits that the respondent herein has instituted one title suit, being Title Suit No.06/2022 on 16.03.2022, before the Court of learned Munsiff, Bajali, Pathsala. The petitioner herein, as defendant, entered appearance and filed written statement on 16.07.2022, and also filed counter claim in the said title suit. Thereafter, on 29.11.2024, the petitioner has filed one petition, being Petition No.837/2024 under Order XXVI Rule 9 read with Section 151 CPC for appointing one Amin Commissioner for surveying the suit land. Then, on 20.06.2025, the learned Civil Judge (Jr. Division), Bajali, Pathsala, has allowed the petition and appointed Amin Commissioner, directing measurement of Schedule-B and C land but not Schedule-A land. Thereafter, on 28.07.2025, land verification was conducted by the Lat Mondal measuring Schedule-B and C and a report was furnished on 05.08.2025 before the Circle Officer, Bajali Revenue Circle and the report was submitted before the learned Civil Judge (Jr. Division), Bajali, Pathsala, on 12.08.2025 by the Circle Officer, Bajali Revenue Circle, Pathsala. Thereafter, on 18.09.2025 the petitioner has filed another petition, being Petition No.806/2025 for re-verification of the suit dag No.633 by measuring the entire Schedule-A land. But, on 07.01.2026, the impugned order has been passed by the learned Civil Judge (Jr. Division), Bajali, Pathsala, rejecting the petition seeking re-verification filed by the petitioner.

4. Mr. Chakraborty submits that Schedule-B and Schedule-C land are part of Schedule-A land and unless measurement of Schedule-A land is carried out, then no purpose will be served and as such, there is a requirement of re-verification of the suit dag No.633 of Patacharkuchi Town through Amin Commissioner and since the prayer

for re-verification has been rejected by the learned Civil Judge (Jr. Division), Bajali, Pathsala, the actual fact would not come into light and under such circumstances, the impugned order warrant interference of this Court.

5. Having heard the submission of Mr. Chakraborty, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 07.01.2026. It appears that the learned Civil Judge (Jr. Division), Bajali, Pathsala, after discussing the Order XXVI Rule 10, held that a second or fresh local investigation is warranted only when-

- (i) The earlier report suffers from material ambiguity, omission, or defect;
- (ii) The Commissioner had acted beyond jurisdiction or omitted a matter specifically directed;
- (iii) The report is not based on proper measurement, or
- (iv) A further local investigation is necessary for effective adjudication of the issues.

And thereafter, the learned Court has observed that the petitioner has failed to point out any of the specific defect, error, or illegality in the earlier report and the dissatisfaction expressed by the petitioner is of a general nature and that the earlier directions were confined to measuring the area under actual possession of each party and the Commissioner has duly submitted a report on that issue and the petitioner now seeking measurement of the entire 3 katha 18 lecha of land, which goes beyond the original scope of local investigation and appears to be an attempt to enlarge the earlier order, without demonstrating any error in the Commissioner's report. As such, in absence of any material irregularity or cogent ground to discredit the earlier report, the Court find no reason for ordering fresh or second commission and thereafter, dismissed the petition.

6. It appears that the learned Court below for proper adjudication of the dispute has directed appointment of Commissioner for measuring the respective share i.e.

Schedule-B and C land of both the parties and accordingly, the Commissioner has carried out the measurement and submitted the report and the petitioner has failed to point out any infirmity or illegality in the said order and that being so, the impugned order, so passed by the learned Civil Judge (Jr. Division), Bajali, Pathsala, suffers from no infirmity or illegality requiring any interference of this Court and accordingly, the same stands dismissed.

7. However, it is provided that as contended by the petitioner, if verification of the Schedule-A land is necessary to adjudicate the dispute between the parties, the petitioner shall file an application to that effect before the learned Court below and in the event of such an application being filed, the learned Court below shall consider the same in accordance with law.

8. In terms of above, this civil revision petition stands disposed of.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant