

GAHC010037922025



undefined

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

Case No. : RSA/112/2025

KOUSHALLYA KURMI ALIAS KEIKEI KURMI
W/O LATE NARESH KURMI, R/O AENAKHAL TEA ESTATE, P.O.
MONACHERRA, P.S. LALA, DIST. HAILAKANDI.

2: PROTAP KURMI
S/O LATE NARESH KURMI
R/O AENAKHAL TEA ESTATE
P.O. MONACHERRA
P.S. LALA
DIST. HAILAKANDI.

3: RAJ KUMAR KURMI
S/O LATE NARESH KURMI
R/O AENAKHAL TEA ESTATE
P.O. MONACHERRA
P.S. LALA
DIST. HAILAKANDI.

4: JOY KUMAR KURMI

S/O LATE NARESH KURMI ALL ARE R/O AENAKHAL TEA ESTATE
P.O. MONACHERRA
P.S. LALA
DIST. HAILAKANDI

VERSUS

BHUWALKA TRADING AND TEA CO(P) LTD
AENAKHAL TEA COMPANY, WITH ITS REGISTERED OFFICE AT 135
BIPLABI RASH BIHARI BASU ROAD, KOLKATA 700001 AND CARRYING
BUSINESS INTERALIA AS OWNER OF AENAKHAL TEA ESTATE , P.O
MONACHERRA , P.S. LALA, DIST HAILAKANDI, ASSAM REP BY THE
MANAGER, SRI SUMANTA CHOUDHURY, AENAKHAL TEA ESTATE

Advocate for the Petitioner : SOMIM SIDDIQUA, MS A BORAH, MS. J SARMA, MR. S C BISWAS, MR. A IKBAL

Advocate for the Respondent : MR. M SHARMA FOR CAVEATOR, MS. S YASMIN FOR CAVEATOR

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 17.03.2026

Heard Mr. A. Ikbal, learned counsel appearing for the appellant. Also heard Mr. M. Sharma, learned counsel appearing for the sole respondent.

The instant regular second appeal is presented against the Judgment & Decree dated 21.03.2024 passed by the learned Court of Civil Judge (Senior Division), Hailakandi in Title Appeal No. 03/2023, whereby the appeal filed by the appellant was dismissed thereby upholding the Judgment & Decree dated 17.12.2022 passed in Title Suit No. 144/2020 passed by the learned Civil Munsiff No. 1 -cum- JMFC, Hailakandi.

Upon hearing the learned counsel for the appellant and upon perusing the material available on record, the appeal involves following substantial question of law:

- (i) Whether the judgment passed by the learned Courts below is vitiated due to non-compliance of the provisions of Order VI Rule 15 and order XXIX of the Code of Civil Procedure, 1908?

(ii) Whether the judgment and decree passed by the learned Courts below suffers from perversity due to non-consideration of the fact that the schedule given in the plaint is not correct and hence the decree is not executable?

(iii) Whether the plaintiff is entitled to get recovery of possession without there being an issue formulated on the said aspect of the matter?

The appeal is accordingly admitted on the aforesaid substantial question of law.

Issue notice.

Mr. M. Sharma, learned counsel has entered appearance on behalf of the sole respondent.

Let extra copy be furnished within a period of 2 (two) working days from today.

Case records of Title Appeal No. 03/2023 and Title Suit No. 144/2020 be called for.

Re-list the matter on 06.04.2026.

JUDGE

Comparing Assistant