

GAHC010121592026



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

Case No. : CRP(IO)/249/2026

NIKHIL SARKAR
SON OF LATE BRAJENDRA SARKAR, RESIDENT OF GOLMA CHOWK,
WARD NO. 2, UDALGURI TOWN, MOUZA, POST OFFICE, POLICE STATION
AND DISTRICT- UDALGURI, ASSAM- 784509.

VERSUS

ON THE DEATH OF BHABANI SARMA, HIS LEGAL HEIRS
NAMELY

2:RENUKA SARMA
(WIFE)
RESIDENT OF GOLMAGAON
WARD NO. 2
UDALGURI TOWN
MOUZA
POST OFFICE
POLICE STATION AND DISTRICT- UDALGURI
ASSAM- 784509.

3:BISHAL SARMA
(SON)
RESIDENT OF GOLMAGAON
WARD NO. 2
UDALGURI TOWN
MOUZA
POST OFFICE
POLICE STATION AND DISTRICT- UDALGURI
ASSAM- 784509.

4:KUSHAL SARMA
(SON)
RESIDENT OF GOLMAGAON

WARD NO. 2
UDALGURI TOWN
MOUZA
POST OFFICE
POLICE STATION AND DISTRICT- UDALGURI
ASSAM- 784509

Advocate for the Petitioner : MR. DITUL DAS, MR. B J TALUKDAR

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 17.06.2026

- 1.** Heard Mr. D. Das, learned counsel for the petitioner.
- 2.** This application under Article 227 of the Constitution of India has been preferred by the petitioner impugning the order dated 21.02.2026, passed by the Court of learned Civil Judge (Junior Division), Udalguri, in Misc.(J) Case No. 87/2025 in connection with Title Suit No. 3/2021 whereby the prayer of appointing an Advocate Commissioner to inspect the suit land and also a direction to the concerned Lat Mandal to conduct survey of the suit land and thereafter furnish a report regarding as to whether the suit land is Touzi land, Annual Patta land and Periodic Patta land.
- 3.** The learned counsel for the petitioner submits that the predecessor-in-interest of the present defendants had earlier filed an exactly similar application under Order 26 Rule 9 of the CPC on 24.03.2022. The said application was dismissed by the trial court on 02.04.2025. However, he submits that after death of the original defendant when his legal heirs were substituted, the eldest son of the original defendant again filed an application under Order 26 Rule 9 of

the CPC seeking exactly the same relief which were earlier rejected by the trial court when the original defendant filed a similar application. He submits that the trial court without considering its earlier order, had passed the impugned order and hence he submits that same is illegal and required to be interfered with.

4. Issue notice to the respondents.

5. The petitioner shall take steps for issuance of notice upon the respondents by speed post as well as by usual mode within seven days from the date of this order, returnable on 10th of August, 2026.

6. In the meanwhile, considering the submissions made by the learned counsel for the petitioner as discussed in the foregoing paragraphs, the operation of the impugned order dated 21.02.2026, passed in Misc.(J) Case No. 87/2025 in connection with Title Suit No. 3/2021 shall remain stayed till the next returnable date.

7. List accordingly.

JUDGE

Comparing Assistant