

GAHC010240952024



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

Case No. : RSA/222/2025

PRABHAT KALITA AND ANR
S/O LATE BHOLARAM KALITA RESIDENT OF THAKURIAPARA, PO
MAJIRGAON, PS AZARA, DIST KAMRUP M ASSAM

2: NAREN DAS
S/O LATE JIBAN DAS RESIDENT OF BARUAPARA
MAJIRGAON
PO MAJIRGAON
PS AZARA
DIST KAMRUP M ASSA

VERSUS

POTESWARI DAS AND 2 ORS
W/O LATE RAJEN DAS, RESIDENT OF KAMARPUR (SANTIPUR) PO
KAMARPUR PS CHANDRAPUR, DIST KAMRUP M ASSAM

2: JAYANTA DAS
S/O LATE RAJEN DAS
RESIDENT OF KAMARPUR (SANTIPUR) PO KAMARPUR PS CHANDRAPUR
DIST KAMRUP M ASSAM

3: HEMANTA DAS
S/O LATE RAJEN DAS
RESIDENT OF KAMARPUR (SANTIPUR) PO KAMARPUR PS CHANDRAPUR
DIST KAMRUP M ASSA

Advocate for the Petitioner : MR P KALITA, MRS S GOSWAMI

Advocate for the Respondent : ,

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 21.01.2026.

Heard Mr. P. Kalita, learned counsel for the appellant.

This appeal, under Section 100 of the Code of Civil Procedure, 1908, is preferred against the judgment and decree dated 20.07.2024, in Title Appeal No.20/2023, passed by learned Civil Judge (Sr. Division) No.1, Kamrup (M) at Guwahati, upholding the judgment and decree dated 30.01.2023 (Decree signed on 23.02.2024), passed by the learned Munsiff No.1, Kamrup (M) at Guwahati in Title Suit No.271/2016.

Upon hearing the learned counsel for the appellant, this appeal is admitted on the following substantial questions of law:—

- 1. Whether coparceners of an ancestral undivided property entitled to enjoy exclusive right, title and interest and exclusive possession without being partition in any form and manner?*
- 2. Whether the principle laid down under Dayabhaga Law that the share of coparceners are equal and specific but possession is not specific in case of ancestral undivided property?*
- 3. Whether mutation of legal heirs in respect of Ancestral Undivided Property after death of predecessor in interest is illegal?*
- 4. Whether the learned courts below failed to appreciate the settle laws involved in the suit on adjudication of the matter?*

This Court may also hear this appeal on any other substantial questions of law after notice to the respondents.

Issue notice to the respondents, returnable within 4 (four) weeks.

The learned counsel for the appellant shall take steps for service of notice upon the respondents by Speed Post as well as by usual process within a period of 3 (three) days from today.

Also, call for the TCR.

List the matter after four weeks, on a date to be fixed by the Registry.

JUDGE

Comparing Assistant