

GAHC010256122025



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

Case No. : RSA/217/2025

ASMA KHATUN
WIFE OF MAHAMUD ALI, RESIDENT OF VILLAGE NO. 2 BALLIMARI, P.O.
AND P.S. PANBARI, IN THE DISTRICT OF CHIRANG, ASSAM.

VERSUS

MD MANIK SHEIKH AND 4 ORS.
SON OF OMEL SHEIKH, RESIDENT OF VILLAGE NO. 2 BALLIMARI, P.O.
AND P.S. PANBARI, IN THE DISTRICT OF CHIRANG, ASSAM.

2:TARABHAN BIBI
WIFE OF MANIK SHEIKH
RESIDENT OF VILLAGE NO. 2 BALLIMARI
P.O. AND P.S. PANBARI
IN THE DISTRICT OF CHIRANG
ASSAM.

3:MOJOR ALI
SON OF MANIK SHEIKH
RESIDENT OF VILLAGE NO. 2 BALLIMARI
P.O. AND P.S. PANBARI
IN THE DISTRICT OF CHIRANG
ASSAM.

4:MOIJAL HOQUE
SON OF MANIK SHEIKH
RESIDENT OF VILLAGE NO. 2 BALLIMARI
P.O. AND P.S. PANBARI
IN THE DISTRICT OF CHIRANG
ASSAM.

5:AHHERET ALI
SON OF MANIK SHEIKH

RESIDENT OF VILLAGE NO. 2 BALLIMARI
P.O. AND P.S. PANBARI
IN THE DISTRICT OF CHIRANG
ASSAM

Advocate for the Petitioner : MR. S K ROY, MR. N. ISLAM,K RAHMAN

Advocate for the Respondent : ,

Linked Case : I.A.(Civil)/4085/2025

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Advocate for : MR. S K ROY
Advocate for : appearing for MD MANIK SHEIKH AND 4 ORS.

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

11.02.2026

Heard Mr. K Rahman, learned counsel for the appellant.

Pursuant to the order of this Court dated 15.12.2025, Mr. K Rahman, learned counsel for the appellant places the following substantial questions of law, amongst others, for consideration in the instant appeal.

“1. Whether the impugned judgment of the learned First Appellate Court reversing the judgment and decree of the learned Trial Court without complying the mandatory provisions of Order 41 Rule 31 of the Code of Civil Procedure is correct or not?

2. Whether the Learned First Appellate Court committed a substantial error of law by holding that the certified copy of Jamabandi (Ext-1 & 2) has no evidentiary value for proving title, thereby ignoring the presumption of genuineness attached to it under Section 78 and its relevance as an entry in a public record under Section 29 of the Bharatiya Sakshya Adhiniyam, 2023 especially when the Respondents-Defendants failed to rebut this presumption or challenge the said Jamabandi before any competent revenue authority?

3. Whether in absence of any challenge to the mutation order made before the any competent revenue authority, exhibit 1 & 2 the Jamabandi of the Appellant/Plaintiff attached under Section 40 & 41 of the Assam Land and Revenue Regulation, 1886 was carried the presumption to be correct and it

was carried the title and possession over the suit land?

4. Whether the Learned First Appellate Court erred in law by misinterpreting and misapplying the principles of burden and onus of proof as enunciated by the Hon'ble Supreme Court in Anil Rishi v. Gurbaksh Singh, (2006) 5 SCC 558, by holding that the Appellant-Plaintiff failed to discharge her initial onus, despite producing unimpeached documentary evidence in the form of Jamabandi and land revenue receipts (Ext-1 to 9)?

5. Whether the findings of the Learned First Appellate Court are perverse and legally unsustainable, having been arrived at by reversing the findings of fact of the Trial Court without demonstrating that the Trial Court's conclusions were contrary to the evidence on record or were based on no evidence at all?

6. Whether the Learned First Appellate Court committed a substantial error of law by non-suiting the Appellant-Plaintiff for not producing a registered sale deed, while completely overlooking the settled legal principle that in a suit for eviction, a plaintiff with a better title, even if possessory, is entitled to a decree against a trespasser who has no title whatsoever?

7. Whether the judgment of the Learned First Appellate Court is vitiated by the non-consideration of material documentary evidence, namely the land revenue receipts (Ext-3 to 9), which corroborated the Appellant's title and established her continuous possession over the suit land?

8. Whether the Judgment and decree of the learned First Appellate Court is vitiated because of perverse appreciation of the materials on record?

9. Any other substantial questions of law that may be formulated by the Hon'ble Court?"

Let the appeal be posted for hearing on **10.03.2026**, under the column "for hearing U/O XLI Rule II C.P.C."

JUDGE

Comparing Assistant