

GAHC010257822025



2026:GAU-AS:5397

IN THE GAUHATI HIGH COURT
HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

Review.Pet.274/2025

1. Subhodeep Roy
S/O Sri Deniel Roy,
R/O. Pailapool, Labacpar Pt I,
P/O. Pailapool, PS Lakhipur,
District-Cachar, Assam 788098

.....Petitioner

-Versus-

1. Madhu Sudan Koiri
District-Cachar
2. Smt. Bina Koiri
District-Cachar
3. Rajan Prasad Koiri
District-Cachar
4. Amit Prasad Koiri
All are the sons and daughter of Late Ram Rosayan
Koiri All are R/O Vill. Pailapool Labac Part- I
P.O. Pailapool P.S. Lakhipur
District-Cachar Assam 78809

.....Respondents

For Appellant	:	Mr. B. J. Ghosh, Advocate
For Respondent	:	Mr. G. N. Sahewalla, Senior Advocate
	:	Mr. A. R. Paul, Advocate
Date of Hearing	:	08.01.2026
Date of Judgment	:	20.04.2026

BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
JUDGMENT

- 1.** Heard Mr. B. J. Ghosh, the learned counsel for the review petitioner. Also heard Mr. G. N. Sahewalla, the learned senior counsel assisted by Mr. A. R. Paul, the learned counsel for the respondents.
- 2.** This Review Application under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure, 1908 has been filed by the petitioner praying for review of the order dated 10.11.2025 passed by this Court in CRP (IO) No.375/2025.
- 3.** The facts relevant for consideration of the instant review application, in brief, are that the present petitioner had approached this Court earlier by filing an application under Section 115 read with Section 151 of the Code of Civil Procedure, 1908, whereby, the orders dated 29.08.2025 passed in Misc. (J) Case No. 269/2025 and Misc (J) Case No. 270/2025 respectively were impugned by the present petitioner. The said application was registered as Criminal Revision Petition (IO) No. 375/2025.
- 4.** The predecessor-in-interest of the present respondents had filed the Title Suit No. 76/1979 praying for decree of declaration of right, title and interest over the Schedule-1 land and for recovery of khas possession of the land described in Schedule 2, 3 and 4 of the plaint. The plaintiff also prayed for eviction of the defendants from the suit land.

5. The Trial Court by its judgment and decree dated 12.12.1986 and 17.12.1986 respectively, partly allowed the title suit in as much as it granted the relief of declaration of right, title and interest of the plaintiff over the Schedule 1 and Schedule 2 land. However, the relief in respect of Schedule 3 and Schedule 4 land was declined.
6. Being aggrieved by the judgment and decree of the Trial Court passed in Title Suit No. 76/1979, the predecessor-in-interest of the present respondents filed an appeal before the Court of the learned Additional District Judge Cachar, Silchar. The said appeal was registered as Title Appeal No. 1/1987.
7. The First Appellate Court by its judgment and decree dated 02.04.2005 passed in the Title Appeal No.1/1987, had modified the judgment and decree of the Trial Court by holding that the plaintiff is entitled to recovery of khas possession of the land, which is described in Schedule 3 and 4 of the claim by evicting the defendant No. 2 and defendant Nos. 3-10 therefrom.
8. Being aggrieved by the judgment and decree of the First Appellate Court, the judgment debtors preferred a Regular Second Appeal before this Court, which was registered as RSA No. 230/2005. However, by judgment dated 08.01.2016, passed in RSA No. 230/2005, the Regular Second Appeal filed by the predecessor-in-interest of the present petitioner was also dismissed. In the meanwhile, the decree holder had already instituted an execution case bearing Title Execution Case No. 5/2005 before the Executing Court.

- 9.** In the aforesaid execution proceeding, the present petitioner challenged the execution of the decree on the ground that no demarcation or partition took place in PP Case No. 30/1974 and filed an application for calling of the records of the aforesaid PP Case. The said application was registered as Misc. Case No.270/2025 before the Executing Court of the learned Civil Judge (Senior Division) No. 1, Cachar, Silchar. The petitioner also filed a separate application under Order 13 Rule 10(2) of the Code of Civil Procedure, 1908 praying for calling of the records of Title Suit No.62/1971 as well as the Title Suit No. 335/1981. On the basis of the said application, the Misc. (J) Case No. 269/2025 was registered.
- 10.** Ultimately, by two separate orders passed on 29.08.2025 in Misc. (J) Case No. 269/2025 as well as in Misc. (J) Case No.270/2025, both the Misc. (J) cases were dismissed, rejecting the applications filed by the present petitioner for calling of the records.
- 11.** On being aggrieved by the aforesaid orders, the present petitioner filed the Criminal Revision Petition (IO) No. 375/2025 under Section 115 and 151 of the Code of Civil Procedure, 1908 before this Court. By the judgment and order dated 10.11.2025, passed in Civil Revision Petition (IO) No. 375/2025, this Court had dismissed the said Civil Revision Petition. The aforesaid order is under review with this review application.
- 12.** The main contention of Mr. B. J. Ghosh, the learned counsel for the review petitioner is that, though, the present petitioner had put to challenge two separate orders dated 29.08.2025 in

two separate Misc (J) cases, namely, Misc. (J) Case No. 269/2025 and in Misc. (J) Case No.270/2025. However, by the order under review, this Court disposed of the aforesaid Civil Revision Petition (IO) No. 375/2025 considering only the impugned order passed in Misc. (J) Case No. 269/2025. The order passed in Misc. (J) Case No.270/2025 was not considered and no discussion was made regarding this said impugned order in the order under review.

- 13.** The learned counsel for the review petitioner has submitted that the Misc. (J) Case No. 269/2025 was registered on the basis of the Petition No. 583/2010 under Order 13 Rule 10 (2) of the Code of Civil Procedure 1908, praying for calling of Title Suit No. 62/1971 and Title Suit No.335/1981 from the Court of the learned Assistant District Judge, Cachar, Silchar as well as the Court of the learned Sadar Munsiff No. 1, Silchar respectively. Whereas, the Misc. (J) Case No.270/2025 was registered on filing of Petition No. 582/2008 under Order 13 Rule 10 (2) of the Code of Civil Procedure, 1908, praying for calling of the records of PP Case No. 30/1974 from the Office of Deputy Commissioner, Cachar.
- 14.** He submits that though by the order under review, this Court rejected the challenge put by the present petitioner in respect of Order dated 29.08.2025 passed in Misc. (J) Case No. 269/2025. However, in the impugned order, no discussion has been made by this Court in respect of the order dated 29.08.2025 passed in Misc. (J) Case No.270/2025. Hence, he submits that there is an apparent error in the order under review for which it is required to be set aside and the Civil

Revision Petition (IO) No. 375/2025 is required to be restored and reheard.

- 15.** On the other hand, Mr. G. N. Sahewalla, the learned senior counsel for the respondents submits that the order dated 29.08.2025 passed by the Executing Court in respect of order dated 29.08.2025 passed in Misc. (J) Case No.270/2025 as well as the order dated 29.08.2025 passed in Misc. (J) Case No.269/2025 are not, in any manner, tainted with any illegality or infirmity.
- 16.** He also submits that in Misc. (J) Case No.270/2025, the petitioner had prayed for calling of the record of PP cases from the Office of the Deputy Commissioner, Cachar. However, he submits that the provision contained in Order 13 Rule 10 (2) of the Code of Civil Procedure, 1908 can be invoked only for calling of record from any Court. He submits that the Office of the Deputy Commissioner may not be regarded as Court, therefore, the Executing Court was right in dismissing the said Misc (J) Case. However, he fairly submits that in the order under review, this Court had dealt with only order dated 29.08.2025 passed in Misc. (J) Case No. 269/2025 and no discussion was made in respect of order dated 29.08.2025 passed in Misc. (J) Case No.270/2025.
- 17.** I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record.
- 18.** The Rule 2 of Chapter IV of Part-II of Gauhati High Court Rules provides that in every application presented to the High Court, there should be stated immediately after cause title,

the section and statute, under which the application is made, the date of order complained of, and the value of the subject matter of the suit, out of which application arises.

- 19.** In the instant case, it appears that in the cause title of the petition filed by the present petitioner in Civil Revision Petition (IO) No. 375/2025, though, the mention of order dated 29.08.2025 passed in Misc. (J) Case No. 269/2025 in connection with Title Execution Case No.5/2005 has been separately mentioned after the cause title. However, while mentioning the order passed in Misc. (J) Case No. 269/2025 and Misc. (J) Case No.270/2025 in the third paragraph after the cause title, the word "order" has been used in singular form, giving rise to a confusion regarding the numbers of orders which were challenged in the Civil Revision Petition (IO) No. 375/2025. A clear and separate mention of the impugned order dated 29.08.2025 passed in Misc. (J) Case No.270/2025 after the cause title of the Civil Revision Petition (IO) No. 375/2025 would have facilitated in avoiding the confusion, which has occurred in this case.
- 20.** To avoid such confusions, apart from the requirement of clearly mentioning the impugned order after the cause title of any application, the Civil Court Rules and Orders of Gauhati High Court also provides in Rule 20 (2) that applications in regard to distinct subject matter shall be made in separate petitions.
- 21.** Be that as it may, it is apparent on perusal of the judgment and order under review that no discussion about the order dated 29.08.2025 passed by the Executing Court in Misc. (J)

Case No.270/2025 has been made in the judgment and order under review. Hence, there is an error apparent on the face of the order itself and accordingly, the same is required to be vacated.

- 22.** This Court, accordingly, vacates the judgment and order dated 10.11.2025 passed in Civil Revision Petition (IO) No. 375/2025 by this Court.
- 23.** The impugned orders dated 29.08.2025 passed in Misc. (J) Case No. 269/2025 as well as in the Misc. (J) Case No.270/2025 in connection with the Title Execution Case No. 05/2025 by the Court of the learned Civil Judge (Senior Division) No. 2, Cachar, Silchar have to be reconsidered by this Court in the Civil Revision Petition (IO) No. 375/2025.
- 24.** Accordingly, the Registry is directed to restore the Civil Revision Petition (IO) No. 375/2025 and list the same for hearing again in the second week of May 2026 on a date to be fixed by it.
- 25.** This Review Petition is, accordingly, allowed.

JUDGE

Comparing Assistant

Munmun
Boruah

Digitally signed by Munmun
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