GAHC010150062026

2026:GAU-AS: 14791

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

Case No. : I.A.(Civil)/2579/2026

AJANTA KALITA
S/O LATE ABHIRAM KALITA, R/O AZAD ROAD, DOOM DOOMA, P.O. DOOM DOOMA, DIST. TINSUKIA.

VERSUS

ON THE DEATH OF PADMADHAR CHOUDHURY HIS LEGAL HEIRS AND ORS
NAMELY-

1.1:SMTI PRANATI CHOUDHURY (WIFE)
R/O WOOD ROAD
DOOM DOOMA
PO DOOM DOOMA
DISTRICT TINSUKIA
PIN 786151
ASSAM

1.2:SRI UTPAL CHOUDHURY
S/O LATE PADMADHAR CHOUDHURY
R/O WOOD ROAD
DOOM DOOMA
PO DOOM DOOMA
DISTRICT TINSUKIA
PIN 786151
ASSAM

1.3:PRATIN @ NITUL KUMAR CHOUDHURY

S/O LATE GONGADHAR CHOUDHURY
R/O WOOD ROAD
DOOM DOOMA TOWN

P.O. DOOM DOOMA
DIST. TINSUKIA
ASSAM

Advocate for the Petitioner : MR G N SAHEWALLA, MSK KALITA,MS.J BORA,MR.D SENAPATI,MD.ASLAM

Advocate for the Respondent : MR. D CHOUDHURY(R1.1,1.2,1.3), MR T CHAKRABORTY(R1.1,1.2,1.3),MS. A KHARBANI(R1.1,1.2,1.3)

Linked Case : RSA/89/2011

AJANTA KALITA
S/O LATE ABHIRAM KALITA
R/O AZAD ROAD
DOOM DOOMA
P.O. DOOM DOOMA
DIST. TINSUKIA.

VERSUS

ON THE DEATH OF PADMADHAR CHOUDHURY HIS LEGAL HEIRS AND ORS NAMELY-

1.1:SMTI PRANATI CHOUDHURY (WIFE)
R/O WOOD ROAD
DOOM DOOMA
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1.2:SRI UTPAL CHOUDHURY
S/O LATE PADMADHAR CHOUDHURY
R/O WOOD ROAD
DOOM DOOMA
PO DOOM DOOMA
DISTRICT TINSUKIA
PIN 786151
ASSAM

2:PRATIN @ NITUL KUMAR CHOUDHURY

S/O LATE GONGADHAR CHOUDHURY
R/O WOOD ROAD
DOOM DOOMA TOWN
P.O. DOOM DOOMA
DIST. TINSUKIA
ASSAM.

3:STRUCK OFF
VIDE HON'BLE COURT'S ORDER DATED 23-05-2011 AND 17-02-2012

4:STRUCK OFF
VIDE HON'BLE COURT'S ORDER DATED 23-05-2011 AND 17-02-2012

Advocate for : MR.G N SAHEWALLA
Advocate for : MR.A D CHOUDHURY appearing for ON THE DEATH OF PADMADHAR CHOUDHURY HIS LEGAL HEIRS AND ORS

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 05.10.2026

Heard Ms. K. Bhattacharyya, learned counsel for the applicant. Also heard Mr. D. Choudhury, learned counsel for the respondent nos. 1.1, 1.2, and 1.3.

2. This interlocutory application has been filed for correction of typographical errors, which have crept in the order dated 15.05.2026, passed by this Court in RSA 89/2011.

3. Having heard the both sides, the prayer is allowed.

4. Accordingly, the following typographical errors stand corrected as in the manner as stated below:

Para no.	For	Read As
11	Therefore, the issue raised in this second appeal appears to be restricted only to the	Therefore, the issue raised in this second appeal appears to be restricted only to the

	condition contained in **paragraph 14(2)** of the appellate order, ...	condition contained in **paragraph 40(2)** of the appellate order,.....
15	.....Therefore, the directions contained in **paragraph 14(2)** of the learned First Appellate Court's order, allowing the repairs to be carried out, but in the presence of the respondents /plaintiffs or their representatives, agents, etc. is not warranted.	...Therefore, the directions contained in **paragraph 40(2)** of the learned First Appellate Court's order, allowing the repairs to be carried out, but in the presence of the respondents/ plaintiffs or their representatives, agents, etc. is not warranted.
16	As the right of the respondents/plaintiffs is duly protected by the judgment and decree passed by the learned trial court and also affirmed by the learned First Appellate Court in **paragraph 14(1)** of the Appellate judgment, order and decree,.....	As the right of the respondents/plaintiffs is duly protected by the judgment and decree passed by the learned trial court and also affirmed by the learned First Appellate Court in **paragraph 40(1)** of the Appellate judgment, order and decree,.....
17	Therefore, that part of the appellate judgment, order and decree, as contained in sub-paragraph 2 of **paragraph 14** of the First Appellate judgment, order and decree dated 20.12.2010, passed by the learned District Judge, Tinsukia entitled Appeal No. 6/2009, is hereby interfered with and the same is modified as follows:- "**14(2)** The defendant is allowed to do only the repairing of the suit house, without changing the basic nature or character, size and structure, as indicated in **paragraph 14(1)** of the appellate judgment, order and decree. However, it would not be necessary for the repairs to be carried out only in the presence of the plaintiffs or their representatives, agents, etc. It is further clarified that in the guise of repairs, the appellant/defendant no. 1 would not have any right to act contrary to the decree as ordered in sub-paragraph 1 of **paragraph 14**."	Therefore, that part of the appellate judgment, order and decree, as contained in sub-paragraph 2 of **paragraph 40** of the First Appellate judgment, order and decree dated 20.12.2010, passed by the learned District Judge, Tinsukia entitled Appeal - No. 6/2009, is hereby interfered with and the modified as same is follows:- "**40(2)** The defendant is s allowed to do only the e repairing of the suit house, - without changing the basic nature or character, size e and structure, as indicated in **paragraph 40(1)** of the appellate judgment, order and decree. However, - it would not be necessary for the repairs to be carried out only in the presence of the plaintiffs or their representatives, agents, etc. It is further clarified that in the guise of repairs, the appellant/defendant no. 1 would not have any right to act contrary to the decree as ordered in sub-paragraph 1 of **paragraph 40**."
19	.....Therefore, though the appellants have a right over the house, the defendants/plaintiffs have a right to examine that in the name of repairs, the structure of the house is directed in sub-paragraph 1 of **paragraph 14** of the First Appellate judgment, order and decree is not frustrated. Thus, the substantial question of law is answered by holding that in view of Section 5(1) of the Assam Non-Agriculture	.....Therefore, though the appellants have a right over the house, the defendants/plaintiffs have a right to examine that in the name of repairs, the structure of the house is directed in sub-paragraph 1 of **paragraph 40** of the First Appellate judgment, order and decree is not frustrated. Thus, the substantial question of law is answered by holding that in view of Section 5(1) of the Assam Non-Agriculture

	Urban Areas Tenancy Act, 1955, the appellants/defendants have a right to repair the house but without violating the direction as contained in **paragraph 14(1)** of the First Appellate judgment, order and decree dated 20.12.2010, passed by the learned District Judge, Tinsukia in Title Appeal No. 6/2009.	Urban Areas Tenancy Act, 1955, the appellants/defendants have a right to repair the house but without violating the direction as contained in **paragraph 40 (1)** of the First Appellate judgment, order and decree dated 20.12.2010, passed by the learned District Judge, Tinsukia in Title Appeal No. 6/2009

5. This order shall be read together with order dated 15.05.2026, passed by this Court in RSA 89/2011.

6. This interlocutory application stands allowed and disposed of.

JUDGE

Comparing Assistant