

GAHC040008132023



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

Case No. : IA(C) 112/2023

1:Rigo Riba @ Tago Riba
S/o Lt. Gori Riba,
Permanent Resident of Lipu Village, PO/PS Likabali, District Lower Siang,
Arunachal Pradesh.
Phone No. 8794649336

VERSUS

1:Yomdak Jini and 2 Ors.
S/o Late Rayom Jini,
Permanent Resident of Old Market Aalo,
West Siang District, Arunachal Pradesh,
Represented by the deceased Judgment debtor late Shri Rayom Jini.

2:Henli Riba
S/o Lt. Marsen Riba

Permanent Resident of Liru Village
PO/PS Likabali
Dist. Lower Siang
Arunachal Pradesh.

3:Pakbi Riba @ Mibi Riba
D/o Late Dakpak Riba

Permanent Resident of Lipu Village
PO/PS Likabali
Dist. Lower Siang
Arunachal Pradesh

Advocate for the Petitioner : Khoda Tari

Advocate for the Respondent : Topi Jini

**BEFORE
HONBLE MRS. JUSTICE MARLI VANKUNG**

ORDER

Date : 21-06-2023

Heard Mr. T. Tsering, learned counsel for the applicant, along with Ms. T. Jini, learned counsel for the respondent no. 1.

2. This is an application filed under Section 33 & 151 read with Order 41, Rule-35 and read with Rule 139 of the Civil Court Rules & Orders of the Gauhati High Court (High Court of Assam, Arunachal Pradesh, Mizoram and Nagaland) praying for modification of the draft decree in pursuance with the judgment dated 29.07.2022, passed in RFA No. 06/2019.

3. The learned counsel for the applicant submits that in pursuance of the judgment, dated 29.07.2022, passed by this Court in RFA No. 06/2019, wherein, the applicant has been declared the owner and given title over the land measuring 5565 Square feet (8 meters in breadth & 100 meters in length) in Title Suit No. 03/2016, before the Civil Judge (Senior Division) Aalo, West Siang District, however, in the draft decree for the further execution of the matter, the learned counsel has prayed that the following decree granted by the Court below in Decree dated, 28.01.2019, may be added as per the terms and Rule 134(3) of the Civil Court Rules and Order of the Gauhati High Court, which may be read as follows:

“It is also decreed that the defendants have no right, title and interest over the said land. The defendants and their representatives are restrained

from entering into the suit land to disturb the ownership right and title of the Plaintiff over the suit land”

4. Ms. Jini, learned counsel for the respondent no. 1 has not raised any objection to the submission made by the learned counsel for the applicant.

5. Heard the submission made by the learned counsels for both the parties. It is seen that though this case is at the motion stage, since the respondent no. 1 has been duly represented by Ms. Jini, learned counsel, formal notice is not required to be issued. It is also submitted that the respondent nos. 2 & 3 did not make their appearance in RFA No. 06/2019 though notice was duly served upon them and thus, notice is not required to be issued upon them.

6. In view of the above submission and in view of the judgment passed in RFA No. 06/2019, wherein, this Court had partially set aside and quashed the judgment and decree dated 28.01.2019, passed by the learned Civil Judge (Senior Division), West Siang District, with regards to finding that the plaintiff had no title or ownership right over the plot of land measuring 5565 Square Feet (8 meter in breadth and 212 feet in length) as the same is the Lipu village link road connecting BRTF road only, this Court finds it appropriate that in the subsequent decree for the proper execution of the matter, the following may be added in terms of Rule 134(3) of the Civil Court Rules and Orders of the Gauhati High Court, which shall read as follows:

“It is also decreed that the defendants have no right, title and interest over the said land. The defendants and their representatives are restrained from entering into the suit land to disturb the ownership right and title of the Plaintiff over the suit land”

7. Accordingly, the interlocutory application stands disposed of.

JUDGE

Comparing Assistant