

GAHC010067592022



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

Case No. : MFA/60/2022

SARAT BORKOTOKY AND ANR.
S/O LATE HEM CHANDRA BORKOTOKY
RESIDENT OF HOUSE NO. 1, SOUTH SARANIA. GUWAHATI , KAMRUP M
ASSAM

2: SRI SUMER SINGH GAUR
S/O LATE SAHEB RAM GAUR RESIDENT OF HOUSE NO. 10
JYOTI PATH DHIREN PARA
GUWAHATI 781025
KAMRUP M ASSA

VERSUS

INDIAN NATIONAL TRADE UNION CONGRESS AND 2 ORS.
ASSAM BRANCH, GUWAHATI, REPRESENTED BY THE PRESIDENT OF THE
WORKING COMMITTEE OF THE INDIAN WORKING TRADE UNION
CONGRESS GUWAHATI, ASSAM BRANCH, K.C SEN ROAD, PALTAN BAZAR,
PO 781008

2:HIRANYA BORA
S/O LATE K.P BORA
RESIDENT OF TARUN NAGAR
PO GUWAHATI
KAMRUP M ASSAM 781005

3:SRI DWIZEN LAHKAR
S/O LATE BHAVAN LAHKAR
PRESIDENT OF PANDU RAILWAY STATION COLONY
PO PANDU
PS JALUKBARI
DIST KAMRUP M ASSA

Advocate for the Petitioner : MR. R BARUAH

Advocate for the Respondent : MR. B D DEKA

PRESENT

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Appellants : Mr. T.J. Mahanta,
Sr. Advocate.

For the Respondents : Mr. B.D. Deka,
Advocate.

Date of Hearing : 15.05.2023.

Date of Judgment : 26.05.2023.

JUDGMENT AND ORDER (CAV)

Heard Mr. T.J. Mahanta, learned senior counsel representing the appellants. Also heard Mr. B.D. Deka, learned counsel appearing for the respondents.

2. This is an appeal under Order 43 Rule 1(r) of the Code of Civil Procedure challenging the order dated 15.03.2022 passed by the learned Civil Judge No.1, Kamrup (M), Guwahati in Misc.(J) Case No.424/2021 arising out of T.S. No.279/2021, is put to challenge.

3. Indian National Trade Union Congress is the organization governed by its constitution. It has different branches all over India and as such Indian National Trade Union Congress, Assam Branch is a part of the parent organization. There was a dispute between the members of the Assam Branch on the issue of holding the triennial conference. Because of the dispute, by exercising power under Clause 12(i) of the constitution, the

Indian National Trade Union Congress formed an ad-hoc committee to run the Assam Branch. The notification to that effect was issued on 14.11.2019. That ad-hoc committee got extension from time to time and is functioning till today.

4. In the meantime, the other faction continued to function as the Assam Branch of Indian National Trade Union Congress and continued to collect funds and also continued to withdraw money from the Bank account.

5. It may be mentioned that the said other faction held the triennial conference. Therefore, the ad-hoc committee filed the suit against the other faction. The civil court passed an order of injunction directing the other faction not to give effect to the resolutions which were adopted in the triennial session.

6. Therefore, the other faction filed a petition before the trial court under Order 39 Rule 3A and 4 of the CPC to modify and to set aside the said injunction order. The trial court dismissed the said petition and hence, the present appeal has been filed.

7. I have considered the submissions made by the learned counsels of both sides.

8. In an appeal under Order 43 Rule 1(r) of the Civil Procedure Code, unless the petitioner shows arbitrariness and perversity, the appellate court would not interfere into the impugned order of injunction.

9. The present petitioner is an ad-hoc committee constituted under the constitution of Indian National Trade Union Congress. Therefore, the other faction which earlier used to run the affairs of the institution, no longer exists, though they claimed to exist. There is no perversity and arbitrariness in the

impugned order. I find that the learned trial court has rightly refused to modify and to set aside the injunction order. The impugned order dated 15.03.2022 passed by the learned Civil Judge No.1, Kamrup (M), Guwahati in Misc.(J) Case No.424/2021 arising out of T.S. No.279/2021, does not require any interference of this appellate Court.

10. For the said reasons, the appeal is found to be devoid of merit and stands dismissed accordingly.

JUDGE

Comparing Assistant