

GAHC010140032023



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

Case No. : CRP(IO)/191/2023

KISHORILAL THARD AND ANR.
SON OF SRI BAIJNATH THARD,
RESIDENT OF NUNIA PATTY FEDDER ROAD,
CONNECTING NAU-PUKHURI ROAD,
WARD NO. 3, NEAR TILOK MARKET,
P.O. AND DIST.- TINSUKIA, ASSAM.

2: PUSHKARLAL AGARWALLA
SON OF SRI KUNDANLAL AGARWALLA

RESIDENT OF NUNIA PATTY FEEDER ROAD

CONNECTING NAU-PUKHURI ROAD

WARD NO. 3
NEAR TILOK MARKET

P.O.
P.S. AND DIST.- TINSUKIA

ASSAM

VERSUS

GOBINDA KARMAKAR AND 2 ORS.
SON OF RUHINI RANJAN KARMAKAR
RESIDENT OF NUNIA PATTY FEEDER ROAD,
CONNECTING NAU-PUKHURI ROAD,
WARD NO. 3, NEAR TILOK MARKET,
P.O., P.S. AND DIST.- TINSUKIA,
ASSAM, PIN- 786125.

2:UMA KARMAKAR
WIFE OF SRI GOBINDA KARMAKAR

RESIDENT OF NUNIA PATTY FEEDER ROAD

CONNECTING NAU-PUKHURI ROAD

WARD NO. 3
NEAR TILOK MARKET

P.O.
P.S. AND DIST.- TINSUKIA

ASSAM
PIN- 786125.

3:THE TINSUKIA MUNICIPAL BOARD
HAVING ITS OFFICE AT G.N.B. ROAD

TINSUKIA TOWN
P.O.
P.S. AND DIST.- TINSUKIA

ASSAM
PIN- 786125

REPRESENTED BY ITS CHAIRMAN

Advocate for the Petitioner : MR. BHASKAR DUTTA, SENIOR ADVOCATE

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 22.06.2023

Heard Mr. S.Deka, the learned counsel appearing on behalf of the Petitioners.

2. This is an application filed under Article 227 of the Constitution challenging the order dated 20/6/2023 passed by the Court of the Munsiff No. 1, Tinsukia, whereby the Petition No. 1920/2023 was filed by the Petitioners for extension of

the ex-parte ad-interim order dated 23/12/2022 till the disposal of the injunction proceedings.

3. It appears from the order dated 20/6/2023 that the original injunction order was passed on 23/12/2022 thereby the Respondent Nos. 1 and 2 herein, their main agents and all persons acting on their behalf were restrained from making any further construction over and in respect of the suit premises until filling of the objection by the Opposite Parties.

4. It further appears from the record that on 29/5/2023, the Opposite Party Nos. 1 and 2/the Respondent Nos. 1 and 2 herein had filed their objections and on the said date there was no application filed seeking extension of the injunction order dated 23/12/2022. It was only on 20/6/2023 that the application was filed seeking extension of the injunction order dated 23/12/2022 till the disposal of the injunction proceedings.

5. I have perused the order dated 20/6/2023 passed by the learned Trial Court and I am of the opinion that there is no infirmity in the said order inasmuch as when the injunction order was not inoperative post 25/5/2023, the question of extending an order which was not in existence does not arise.

6. Mr. S. Deka, the learned counsel appearing on behalf of the Petitioners submits that taking advantage of the fact that there is no injunction order, the Respondent Nos. 1 and 2 are constructing on war footing and to that effect have drawn the attention of this Court to Annexure-8 of the Revision Application. This Court is of the opinion that the Petitioners will be well advised to file appropriate application bringing to the notice of the learned Trial Court to the alleged constructions being carried out by the Respondent Nos. 1 and 2 and thereby seeking for a fresh injunction in view of the expiry of the injunction

order dated 23/12/2022. This Court requests the learned Trial Court upon such application, if so filed, to consider the said aspect of the matter and pass appropriate orders as deemed fit.

7. With the above, the petition stands dismissed subject to the observations made in Paragraph 6 hereinabove.

JUDGE

Comparing Assistant