

GAHC010157862023



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

Case No. : FAO/34/2023

SMTI. SONALY HAZARIKA
D/O RUPAN CHANDRA HAZARIKA
RESIDENT OF SILPUKHURI DAKHIN PACHIM PAR, HOUSE NO. 5, PS
CHANDMARI, DIST. KAMRUP M GUWAHATI , ASSAM

VERSUS

SMTI. KARUNA HAZARIKA AND 9 ORS
D/O LATE GOPAL KRISHNA HAZARIKA
RESIDENT OF HOUSE NO. 5(1), SILPUKHURI, DAKHIN PACHIM PAR,
HOUSE NO. 5,PS CHANDMARI, DIST KAMRUP M ASSAM
PRESENTLY RESIDING AT C/O LATE BARADA CHARAN SARMA,
RETD. DGP SILPUKHURI, GUWAHATI 3, PS CHANDMARI DIST KAMRUP M
ASSAM

2:PRATIYAM REAL ESTATE PVT. LTD.
REPRESENTED BY PRASANTA BORA AND TIYA BORA

RESIDENT OF FLAT NO. 401
DAULAT APARTMENT
R.G.B ROAD
L.K.R.B PATH
NABIN NAGAR
GUWAHATI
KAMRUP M GUWAHATI
ASSAM
781024
OFFICE ADDRESS BELOW NORTH EAST SMALL FINANCE BANK
G.N.B ROAD
SILPUKHURI
GUWAHATI 3
PS CHANDMARI

DIST KAMRUP M ASSAM

3:SMTI. ASHAPURNA HAZARIKA
D/O LATE RUPAN CHANDRA HAZARIKA
RESIDENT OF SILPUKHURI DAKHIN PACHIM PAR
HOUSE NO. 5
PS CHANDMARI
DIST KAMRUP M ASSAM

4:SMTI. JONALI HAZARIKA
D/O LATE RUPAN CHANDRA HAZARIKA
RESIDENT OF SILPUKHURI DAKHIN PACHIM PAR
HOUSE NO. 5
PS CHANDMARI
DIST KAMRUP M ASSAM

5:SMTI BIYALI (HAZARIKA) KANJILAL
D/O LATE RUPAN CHANDRA HAZARIKA
RESIDENT OF SILPUKHURI DAKHIN PACHIM PAR
HOUSE NO. 5
PS CHANDMARI
DIST KAMRUP M ASSAM

6:SHRI KAMAL KRISHNA HAZARIKA
S/O LATE RUPAN CHANDRA HAZARIKA
RESIDENT OF SILPUKHURI DAKHIN PACHIM PAR
HOUSE NO. 5
PS CHANDMARI
DIST KAMRUP M ASSAM

7:SMTI. RUBI HAZARIKA
W/O LATE DAYAL KRISHNA HAZARIKA
RESIDENT OF SILPUKHURI DAKHIN PACHIM PAR
HOUSE NO. 5
PS CHANDMARI
DIST KAMRUP M ASSAM

8:SHRI ARUP JYOTI HAZARIKA
S/O LATE DAYAL KRISHNA HAZARIKA
RESIDENT OF SILPUKHURI DAKHIN PACHIM PAR
HOUSE NO. 5
PS CHANDMARI
DIST KAMRUP M ASSAM

9:SHRI LAKHYA JYOTI HAZARIKA
S/O LATE DAYAL KRISHNA HAZARIKA
RESIDENT OF SILPUKHURI DAKHIN PACHIM PAR
HOUSE NO. 5

PS CHANDMARI
DIST KAMRUP M ASSAM

10:SHRI NABA JYOTI HAZARIKA
S/O LATE DAYAL KRISHNA HAZARIKA
RESIDENT OF SILPUKHURI DAKHIN PACHIM PAR
HOUSE NO. 5
PS CHANDMARI
DIST KAMRUP M ASSA

Advocate for the Petitioner : N CHAUDHURY

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

24.07.2023

Heard Shri P.K. Deka, learned counsel for the appellant, who is the plaintiff in Title Suit No. 610/2022 and the connected Misc. (J) Case No. 676/2023 pending in the learned Court of the Civil Judge No.2, Kamrup (M), Guwahati. The suit is for ejectment and recovery of khas possession.

Considering the nature of the relief prayed for and also the facts and circumstances of the case, this Court is not required to go into the detail facts of the case.

Shri Deka, the learned counsel has submitted that in the connected Misc. (J) Case, there is an order dated 01.10.2022 whereby the parties were directed to maintain *status quo*. It is the categorical case of the appellant- plaintiff that in spite of the said order of *status quo*, the respondent / principal defendant no. 1 is going ahead with the constructions for which a separate petition for violation of the same has been filed and is also pending.

The learned counsel, Shri Deka, by drawing the attention of this Court to the

order dated 04.07.2023 has submitted that the hearing of the aforesaid Misc. (J) Case has been fixed on 10.08.2023 and if in the meantime, the constructions are carried out, the entire purpose of filing the suit in which an order of *status quo* has been passed would become infructuous.

This Court, after consideration of the submission is of the opinion that since the appellant has taken steps against the allegation of violation of the *status quo* order by filing a separate petition, no grievance, as such appears to have been made out by passing of the impugned order dated 04.07.2023. At the same time, the apprehension expressed by the appellant cannot be totally overlooked.

Therefore, this Court is of the view that interest of justice would be made if the petition is heard on the next date fixed i.e., 10.08.2023 by the learned Court. This Court is also of the opinion that by making a request in that line, issuance of notice before disposal of this appeal may not be required.

In view of the above, the instant appeal is disposed of by requesting the learned Civil Judge No. 2, Kamrup (M), Guwahati to take up the Misc. (J) Case No. 676/2023 connected with T.S. 610/2022 for disposal on the date fixed, i.e., 10.08.2023 without granting any adjournment.

The appellant is also at liberty to pursue her application filed for alleged violation of the order of *status quo* dated 01.10.2022.

Appeal accordingly stands disposed of.

JUDGE

Comparing Assistant