

GAHC010177442022



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

Case No. : FAO/49/2022

SIDDIQUE ALI
S/O ABDUL JALIL,
RESIDENT OF VILLAGE SIBAPUR, MOUZA BARSILAJHAR, PS AND DIST
UDALGURI, BTR, ASSAM, 784190

2: NIZAMUDDIN

S/O ABDUL JALIL

RESIDENT OF VILLAGE SIBAPUR
MOUZA BARSILAJHAR
PS AND DIST UDALGURI
BTR
ASSAM
784190

3: SORHAB ALI
S/O AJGAR ALI

RESIDENT OF VILLAGE SIBAPUR
MOUZA BARSILAJHAR
PS AND DIST UDALGURI
BTR
ASSAM
78419

VERSUS

MAGAR ALI
S/O LATE DILU MANDAL,
RESIDENT OF VILLAGE SIBAPUR, MOUZA BARSILAJHAR, PS AND DIST
UDALGURI, BTR, ASSAM, 784190

Advocate for the Petitioner : MR. A R SHOME

Advocate for the Respondent : MR. B CHETRI

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 18.01.2023

Heard Mr. A. R. Shome, the learned counsel appearing on behalf of the appellants and Mr. B. Chetri, the learned counsel appearing on behalf of the sole respondent.

2. The instant appeal has been filed against the order dated 08.08.2022 passed in Misc. (j) Case No.10/2022 arising out of Title Suit No.02/2022.

3. The appellants herein is aggrieved by the order dated 08.08.2022 whereby the Court below had directed the parties to maintain status quo till the disposal of the main suit. The learned counsel appearing on behalf of the appellants has drawn the attention of this Court to the plaint and more particularly to the reliefs sought for wherein it is the admitted stand of the plaintiff that he is not in possession of the said property inasmuch as he has sought for a decree for recovery of possession. The learned counsel further drawing the attention of this Court to the prayer in the injunction application has stated that on the other hand the plaintiff/the respondent herein has sought for an injunction not to disturb his peaceful possession over the suit land which is on the face of it contradictory. He however submits that taking into account the plaintiff's own case as per the plaint that he is not in possession as stipulated in the plaint, he

would not like to press the appeal as the appellants presently are in possession of the suit land. He only submitted that a clarification be given to the effect that the status quo which have been granted by the Trial Court should only mean the status quo as regards the possession.

4. Mr. B. Chetri, the learned counsel appearing on behalf of the sole respondent submits that it is the Trial Court who would decide whether the plaintiff would be entitled to the possession or not. He however admitted to the fact that the prayer made in the injunction application was specific to restraining the opposite parties/the defendant Nos. 1 and 2 and the proforma defendant not to disturb the peaceful possession of the plaintiff over the suit land shown in the schedule at the foot of the plaint.

5. From the above submissions made by the learned counsels for the parties and upon perusal of the order dated 08.08.2022 read alongwith the reliefs sought for in the plaint as well as in the injunction application, it transpires that the status quo so granted by the Trial Court has to mean a status quo as regards the possession inasmuch as there was no other reliefs sought for.

6. This Court after taking into account the allegations and the counter allegations in the plaint as well as in the written statement is of the opinion that no interference is called for to the order dated 08.08.2022 whereby the Court below in exercise of its equitable discretionary jurisdiction had directed the parties to maintain status quo till the disposal of the suit. Under such circumstances, the instant appeal stands disposed of thereby confirming the order dated 08.08.2022 with the clarification that the status quo so passed shall mean only as regards possession of the parties to the suit land.

7. With above observations and directions the instant appeal stands disposed of.
8. Return the LCR.

JUDGE

Comparing Assistant