

GAHC010018972014



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

Case No. : CRP/426/2014

SAMBHU BAISHYA
S/O- LT. HARIKANTA BAISHYA, GOPALBAZAR, PALLA ROAD, P.S. and
DIST.- NALBARI.

VERSUS

NIRMAL TALUKDAR and ANR
W/O- SRI NARAYAN TALUKDAR, GOPALBAZAR MOUZA KHATA, P.S. and
DIST.- NALBARI.

2:NARAYAN TALUKDAR
S/O- LT. MEDU RAM TALUKDAR
GOPALBAZAR MOUZA KHATA
P.S. and DIST.- NALBARI

Advocate for the Petitioner : MR.P MAHANTA
Advocate for the Respondent : MR.D CHOUDHURYR-2

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

11-06-2024

Heard Shri B. D. Deka, learned counsel for the petitioner, who by means of this petition filed under Section 115 of the CPC has put to challenge an order dated 11.09.2014 passed by the learned Munsiff No. 1, Nalbari in Title Execution Case No. 1/2012 staying the Execution proceedings.

Also heard Shri D. Choudhury, learned counsel for the respondent.

The learned counsel for the petitioner has submitted that the decree in question was for ejectment of the tenant, who has been arrayed as respondent no. 1, Nirmal Talukdar in this present case. It is submitted that such decree for ejectment has been affirmed by the Appellate Court and thereafter was put to execution.

Shri Choudhury, the learned counsel for the respondent has however submitted that so far as the suit property is concerned, that was the subject matter of another suit instituted by the present respondent no. 2 for specific performance of an agreement dated 29.07.2003 which was registered as TS No. 34/2004. The suit was decreed which was also affirmed by the First Appellate Court. The petitioner herein had filed RSA No. 168/2013 which however has been dismissed today.

It appears that the grievance of the present petitioner was with the observation to keep the execution case in abeyance till the disposal of the second appeal, namely, RSA No. 168/2023.

This Court is of the opinion that since the second appeal has been dismissed and the decree passed by the learned Trial Court which was upheld by the First Appellate Court in Title Suit No. 34/2004 has been affirmed by dismissal of the second appeal, no practical purpose would be served by proceeding with the execution and accordingly the revision petition is dismissed.

The fact of dismissal of the RSA No. 168/2013 may be brought to the notice of the learned Executing Court for passing appropriate order(s).

JUDGE

Comparing Assistant