

GAHC010040072024



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

Case No. : CRP(IO)/85/2024

SIDDHARTHA BANERJEE AND 2 ORS.

S/O- SRI P K BANERJEE, R/O- ANANDALOY, HOUSE NO. 11A, BEHIND
ASSAM OPTICAL CO. M.L. NEHRU ROAD, PANBAZAR, GUWAHATI-1,
KAMRUP METRO.

2: ANITA DEVI
W/O- SRI H DAS
R/O- 16
BYE LANE NO. 1
SRIMANTAPUR
L P SCHOOL ROAD
BHANGAGARH
GUWAHATI-32.

3: PRADIP GOGOI
S/O- N C GOGOI
R/O- HOUSE NO. 11
HENGRABARI
TIRANGA PATH
GUWAHATI-36
KAMRUP(M)
ASSA

VERSUS

PARSEH GOUR AND ANR
S/O- PANCH KONWAR GOUR, R/O- ODALBAKRA, KAHILIPARA, P.S.
DISPUR, GUWAHATI-19, DIST. KAMRUP(M), ASSAM

2:SMTI. MANJU DUTTA
W/O- LATE DIBAKAR DUTTA
R/O- ODALBAKRA
KAHILIPARA
P.S. DISPUR

GUWAHATI-19
DIST. KAMRUP(M)
ASSA

Advocate for the Petitioner : MR H DAS

Advocate for the Respondent :

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

01.03.2024

Heard Mr. H. Das, learned counsel for the petitioners.

This is an application under Article 227 of the Constitution of India challenging the order dated 16.02.2024 passed by the learned Civil Judge (Senior Division) No.3, Kamrup(M) in Misc.(J) Case No.142/2024 arising out of Title Suit No.82/2024.

The petitioners have filed a petition under Order XXXIX Rule 1 and 2 of the Civil Procedure Code and also prayed for an *ex parte* order of injunction.

The learned trial court refused to grant the said *ex parte* injunction and issued notice to the other side.

I have gone through the impugned order.

I find that the learned trial court failed to exercise judicial mind while passing the impugned order. There is no discussion about the ingredients of passing order of injunction. Therefore, the impugned order is bad in law and

stands set aside.

The learned trial court is directed to consider the matter afresh and thereafter the trial court shall pass appropriate orders.

With the aforesaid direction, the revision petition stands disposed.

In the meantime, till disposal of the said Misc.(J) Case No.142/2024, both sides shall maintain *status quo* in respect of the suit property.

JUDGE

Comparing Assistant