

GAHC010077732024



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

Case No. : CRP/45/2024

SUBRATA DAS
SON OF LATE HAREKRISHNA DAS,
RESIDENT OF JYOTIKUCHI, DHOPOLIA,
GUWAHATI- 781934, P.S.- FATASIL AMBARI,
KAMRUP METRO, ASSAM.

VERSUS

LAKHI BORO AND ANR.
SON OF LATE NOPAL BORO @ NOPAL SANGMA @ KOKOR SANGMA,
RESIDENT OF HOUSE NO. 67,
KUSHAL KONWAR PATH, FATASIL AMBARI,
KAMRUP METRO, GUWAHATI, ASSAM.

2:RUPALI BORO
WIFE OF LATE KUNKUN BORO

RESIDENT OF HOUSE NO. 67

KUSHAL KONWAR PATH
FATASIL AMBARI

KAMRUP METRO
GUWAHATI
ASSAM

Advocate for the Petitioner : MS. M BHATTACHARJEE

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

Date : 20.04.2024

Heard Ms. M. Bhattacharjee, learned counsel appearing for the petitioner.

This is an application u/s 115 of the Code of Civil Procedure praying for setting aside the order dated 09.01.2024 passed by the Civil Judge (Senior Division) No.3, Kamrup(Metro), Guwahati in Title Execution Case No.51/2022 arising out of Title Suit No.99/2017.

The petitioner is the decree holder before the trial Court. The decree was passed ex-parte. During the execution proceeding, the decree holder was to file a draft sale deed, which was executed by the Court below. On 09.01.2024, the decree holder/petitioner prayed for some time to file the draft sale deed. The learned trial court did not grant any time to the decree holder and the execution petition was dismissed.

I have considered the submission made by Ms. Bhattacharjee.

On a plain reading of the impugned order, it is clear that the learned trial Court did not exercise judicial mind while passing the impugned order. Therefore, the impugned order is set aside.

The petitioner/decreed holder is directed to submit the draft sale deed on 29th April, 2024 and after that the executing Court shall do the needful.

With the aforesaid directions, the revision petition stands disposed of.

JUDGE

Comparing Assistant