

GAHC010080882024



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

Case No. : I.A.(Civil)/1164/2024

MUSSTT. ROOP BHANU
D/O- LATE JALAL KHAN, W/O- SHAHJAHAN ALI AHMED, R/O- VILL.-
MAIKUCHI, MOUZA- BARPETA, DIST.- BARPETA, ASSAM.

VERSUS

MST. HANUFA BEGUM AND ANR
W/O- LATE AHAMMAD ALI, R/O- VILL.- MAIKUCHI, MOUZA- BARPETA,
DIST.- BARPETA, ASSAM.

2:HUMAYUN KABIR
S/O- LATE AHAMMAD ALI
R/O- VILL.- MAIKUCHI
MOUZA- BARPETA
DIST.- BARPETA
ASSAM

Linked Case : RSA/4/2021

MST. HANUFA BEGUM AND ANR
W/O- LATE AHAMMAD ALI
R/O- VILL.- MAIKUCHI
MOUZA- BARPETA
DIST.- BARPETA
ASSAM.

2: HUMAYUN KABIR
S/O- LATE AHAMMAD ALI
R/O- VILL.- MAIKUCHI
MOUZA- BARPETA
DIST.- BARPETA
ASSAM.

VERSUS

MUSSTT. ROOP BHANU
D/O- LATE JALAL KHAN AND W/O- SHAHJAHAN ALI AHMED
R/O- VILL.- MAIKUCHI
MOUZA- BARPETA
DIST.- BARPETA
ASSAM.

Linked Case : RSA/27/2021

MST. HANUFA BEGUM AND ANR
W/O- LATE AHAMMAD ALI
R/O- VILL.- MAIKUCHI
MOUZA- BARPETA
DIST.- BARPETA
ASSAM.

2: HUMAYUN KABIR
S/O- LATE AHAMMAD ALI
R/O- VILL.- MAIKUCHI
MOUZA- BARPETA
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ASSAM.
VERSUS

MUSSTT. ROOP BHANU
D/O- LATE JALAL KHAN
W/O- SHAHJAHAN ALI AHMED
R/O- VILL.- MAIKUCHI
MOUZA- BARPETA
DIST.- BARPETA
ASSAM.

For the applicnat (s) : Mr. P. Katak, Advocate

For the respondent (s) : Mr. S. A. Bakhtiar, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

31.05.2024

This is an application filed under Order XXXIX Rule 1 & 2 read with Section 151 of the Code of Civil Procedure, 1908 by the applicant who is the respondent No.4 in the accompanying Second Appeal bearing RSA No.27/2021 alleging that the appellants who are the opposite party in the instant application are raising construction over the Schedule-B land. It has also been alleged that there is likelihood that the appellants may create third party interest over the Schedule-B land which would be detrimental to the interest of the applicant/respondent.

2. On the other hand, the learned counsel appearing on behalf of the respondents submitted that there is no construction being carried out. However, to resist the flood water coming into the residence, some low lying areas have been filled up without changing the nature of the suit land. The learned counsel for the respondents further submitted that the appellants would not create any third party right or alienate the Schedule-B land.

3. Taking into account the above, this Court disposes of the instant Interlocutory Application thereby directing that the appellants who are in possession of the suit land shall not raise any construction over the Schedule-B land. Further to that, the appellants shall not also create any third party right over the Schedule-B land.

4. Be that as it may, this Court however makes it clear that filling up

the Schedule-B land with earth in order to resist flood water can be carried out by the appellants. However no equity can be claimed on the basis thereof.

5. In view of the above, the instant I.A. stands disposed of.

JUDGE

Comparing Assistant