

GAHC010080992024



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

Case No. : FAO/28/2024

COUNCIL OF BAPTIST CHURCHES IN NORTH EAST INDIA(CBCNEI)
A SOCIETY REGISTERED UNDER THE SOCIETIES REGISTRATION ACT,
1860 HAVING THEIR OFFICE AT HEM BARUAH ROAD, PANBAZAR,
GUWAHATI- 781001 AND REPRESENTED THROUGH THEIR PROPERTY
SECRETRY, MR. RAJIB ZILLIE.

VERSUS

GUWAHATI MUNICIPAL CORPORATION AND 3 ORS.
OFFICE AT 16, BHUBAN ROAD, LATASIL UZAN BAZAR, GUWAHATI-
781001, ASSAM.

2:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
OFFICE AT 16
BHUBAN ROAD
LATASIL UZAN BAZAR
GUWAHATI- 781001
ASSAM.

3:THE ASSTT. EXECUTIVE ENGINEER (I/C)
DIVISION- IV
GUWAHATI MUNICIPAL CORPORATION

OFFICE AT 16
BHUBAN ROAD
LATASIL UZAN BAZAR
GUWAHATI- 781001
ASSAM.

4:RANJAN JYOTI BARMAN
CONTRACTOR

GUWAHATI MUNICIPAL CORPORATION

OFFICE AT 16
BHUBAN ROAD
LATASIL UZAN BAZAR
GUWAHATI- 781001
ASSAM

Advocate for the Petitioner : MR. S P ROY

Advocate for the Respondent : SC, GMC

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

06.05.2024

Heard Mr S P Roy, learned counsel for the appellant and Mr S Bora, learned Standing Counsel, GMC, appearing on behalf of the respondent Nos. 1 to 3.

2. This appeal under Order XLIII Rule 1 (r) of the Code of Civil Procedure, 1908, is directed against the order dated 28.02.2024, passed by the learned trial Court, whereby the learned trial Court had refused to grant an ad-interim *ex parte* injunction against the defendants in the said injunction application being registered and numbered as Misc(J) Case No. 190/2024, arising out of Title Suit No. 102/2024, and issued notice thereby fixing 20.03.2024, for SR and objection. This Court further finds it very pertinent to take note of, that the instant appeal was filed on 19.04.2024. In the meantime, not only the date of 20.03.2024 have passed by, but also the appellant herein, who is the plaintiff for reasons best known, did not take steps immediately after the passing of the order dated 28.02.2024, by the learned trial Court. Today, it has been brought to the attention of this

Court that on account of no steps being taken, the learned trial Court vide order dated 20.03.2024, had fixed matter on 22.05.2024, for SR and objection.

3. Mr S P Roy, learned counsel for the appellant, submits that steps were only taken on 30.03.2024. Under such circumstances, this Court is not inclined to admit and entertain the instant appeal primarily for two reasons. Firstly, the appeal is directed against an order dated 28.02.2024, for not granting an *ex parte* injunction. As the appeal herein was filed on 19.04.2024 and in the meantime, the appellant who is the plaintiff did not take any steps for reasons best known till 30.03.2024. Secondly, this Court had perused the impugned order and do not find any infirmity to interfere with the said order.

4. This Court, however, takes note of that the respondents herein, who are the defendants in the suit are in know of the pendency of title suit as well as the injunction application before the learned trial Court. It is also known to the respondent Nos. 1 to 3 that the next date before the trial Court is 22.05.2024.

5. The respondents/GMC are, therefore, directed to file their written objections before the learned trial Court on 22.05.2024, in respect to that injunction application. The learned trial Court shall, pursuant to such objection being filed, decide the said injunction application at the earliest and preferably within a period of 30 days, thereafter.

6. The appeal stands disposed of.

JUDGE

Comparing Assistant