

GAHC010102612024



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

Case No. : CRP/65/2024

AGNISIKHA SAMANNAYAN SAMITY AND 2 ORS
OFFICE ADDRESS A.T ROAD (NEAR DEKHOW BRIDGE) PO, PS AND DIST
SIVASAGAR, ASSAM, REP. BY ITS PRESIDENT AND SECRETARY, I.E PET.
NO. 2 AND 3

2: SRI DEBASISH DUTTA
S/O LATE NOBIN CHANDRA DUTTA

PRESIDENT OF PET. NO. 1

3: SRI MANUJ BARUAH
S/O SRI KUKIL BARUAH

SECRETARY OF PET. NO. 1
C/O AGNISIKHA SAMANNAYAN SAMITY OFFICE ADDRESS A.T ROAD
(NEAR DEKHOW BRIDGE) PO
PS AND DIST SIVASAGAR
ASSA

VERSUS

KUCH RAJBANSHI SANMILONI SIVASAGR DISTRICT COMMITTEE AND 3
ORS
OFFICE ADDRESS A.T ROAD (NEAR DEKHOW BRIDGE) PO, PS AND DIST
SIVASAGAR, ASSAM, REP. BY PRESIDENT, I.E RES. NO. 2

2:SRI RATUL BHARALI
PRESIDENT OF KUCH RAJBANSHI SANMILONI
OFFICE ADDRESS A.T ROAD (NEAR DEKHOW BRIDGE) PO
PS AND DIST SIVASAGAR
ASSAM

3:THE STATE OF ASSAM

REP. BY THE RES. NO. 4

4:THE CIRCLE OFFICER

SIVASAGAR REVENUE CIRCLE
SIVASAGAR
ASSA

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

14.06.2024.

Heard Shri AK Gupta, learned counsel for the petitioners, who, by means of this petition filed under Section 115 read with Section 151 of the Code of Civil Procedure, has put to challenge an order dated 21.02.2024 passed by the learned Civil Judge (Sr. Division), Sivasagar in Misc. (Appeal) No.8/2023 passed by the learned Civil Judge (Jr. Division) No.1, Sivasagar in Misc. (J) Case No.87/2023.

2. Also heard Ms. D Das Barman, learned State Counsel, Assam for the respondent nos. 3 and 4.

3. Considering the nature of the order proposed to be passed, notices upon the other respondents are deemed to be not necessary.

4. The petitioner was the plaintiff in the suit instituted for declaration of right, title and for confirmation of possession. The said suit was registered as

TS/26/2023 before the learned Civil Judge (Jr. Division), Sivasagar and along with the said suit, an application for injunction was filed which was registered as Misc. (J)/87/2023.

5. Though an *ex parte ad interim* injunction was initially granted, the said misc. case was dismissed on 21.08.2023 upon hearing the contesting parties. The rejection order was the subject matter of an appeal before the learned Court of Civil Judge (Sr. Division), Sivasagar in Misc. Appeal No.8/2023. It also appears that since the prayer for injunction was refused, the petitioner had earlier approached this Court by filing CRP(IO)/15/2024 in which, this Court had passed an order dated 10.01.2024 directing maintenance of *status quo* till the disposal of the appeal.

6. The appeal has subsequently been dismissed by the impugned order dated 21.01.2024 and accordingly, the present petition has been filed.

7. Shri Gupta, learned counsel for the petitioner has submitted that the rejection of the prayer for injunction which has been upheld by the Appellate Court is not based on the materials on record. He submits that the findings arrived at that the petitioner was never in possession of the suit land is perverse as materials were placed before both the Courts which were not appreciated. It is further submitted that taking advantage of the impugned order, the respondents are making constructions over the said plot of land.

8. The powers to be exercised by this Court as a Revisional Court is a power of supervision wherein, the primary outlook is to see whether the exercise of

jurisdiction by the sub-ordinate courts was within the ambit of law. The scope of interference by exercise of powers under Section 115 of the CPC is circumscribed and only on the fulfillment of the conditions laid down in the said section, such powers can be exercised. By the amendment of the year 1999 which came into effect in the year 2002, a proviso has also been inserted whereby it has been laid down that such powers are not to be exercised, except where the order, if was made in favour of the party applying for revision would have finally disposed of the suit or the other proceeding.

9. This Court is of the considered opinion that the present may not be a fit case for exercise of such powers. The petition accordingly stands rejected.

10. In the interest of justice, it is, however, observed that while there will be no restriction in any activities/constructions made on the suit land, the same would be subject to the final outcome of the TS/26/2023 pending before the Court of the learned Civil Judge (Jr. Division), Sivasagar.

JUDGE

Comparing Assistant