

GAHC010123942024



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

Case No. : CRP/70/2024

AMIR UDDIN ALIAS AMIR UDDIN AHMED
S/O LATE TOFIL UDDIN, R/O VILL- GERAMARI PART-IV, P.O.-GERAMARI,
P.S.-GAURIPUR, DIST- DHUBRI, ASSAM, PIN-783339

VERSUS

MD HATEM ALI AND ORS.
S/O LATE SOBHAN ALI, R/O VILL- ALOMGANJ PART-I, P.O.-ALOMGANJ,
P.S.-GAURIPUR, DIST- DHUBRI, ASSAM, PIN-783339

2:THE CIRCLE OFFICER
GAURIPUR REVENUE CIRCLE
P.O. AND P.S.-DHUBRI
DIST- DHUBRI
ASSAM
PIN-783301

3:THE STATE OF ASSAM
REPRESENTED BY THE COLLECTOR
DHUBRI
P.O.-DHUBRI
P.S. AND DIST- DHUBRI
ASSAM
PIN-783301

4:ON THE DEATH OF JOMIR UDDIN SK
S/O LATE NESTULLAH SK
HIS LEGAL HEIRS

4.1:MONIKA BIBI
W/O LATE JOMIR UDDIN SK
R/O VILL- DAMPUR PART-II

P.O.-ALOMGANJ
P.S.-KAZIGAON
DIST- KOKRAJHAR
BTR
ASSAM
PIN-783339

4.2:FAZAR UDDIN
S/O LATE JOMIR UDDIN SK
R/O VILL- DAMPUR PART-II
P.O.-ALOMGANJ
P.S.-KAZIGAON
DIST- KOKRAJHAR
BTR
ASSAM
PIN-783339

4.3:MONJUR ALI
S/O LATE JOMIR UDDIN SK
R/O VILL- DAMPUR PART-II
P.O.-ALOMGANJ
P.S.-KAZIGAON
DIST- KOKRAJHAR
BTR
ASSAM
PIN-783339

4.4:ANSER ALI
S/O LATE JOMIR UDDIN SK
R/O VILL- DAMPUR PART-II
P.O.-ALOMGANJ
P.S.-KAZIGAON
DIST- KOKRAJHAR
BTR
ASSAM
PIN-783339

4.5:MAFIRUL HOQUE
S/O LATE JOMIR UDDIN SK
R/O VILL- DAMPUR PART-II
P.O.-ALOMGANJ
P.S.-KAZIGAON
DIST- KOKRAJHAR
BTR
ASSAM
PIN-783339

5:SUKUR ALI

S/O MEHER ALI
R/O VILL- ALOMGANJ PART-I
P.O.-ALOMGANJ
P.S.-GAURIPUR
DIST- DHUBRI
ASSAM
PIN-783339

6:ON THE DEATH OF IMAN ALI
S/O LATE MEHER ALI
HIS LEGAL HEIRS

6.1:SAHELA KHATUN
W/O IMAN ALI
R/O VILL-ALOMGANJ PART-I
P.O.-ALOMGANJ
P.S.-GAURIPUR
DIST- DHUBRI
ASSAM
PIN-783339

6.2:IMRANA KHATUN
D/O IMAN ALI
R/O VILL- ALOMGANJ PART-I
P.O.-ALOMGANJ
P.S.-GAURIPUR
DIST- DHUBRI
ASSAM
PIN-783339 (BEING MINOR
REPRESENTED BY HER MOTHER SAHELA KHATUN

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

Date : 15.07.2024

Heard Mr. R Sarma, learned counsel for the petitioner as well as Ms. D D Barman, learned Additional Senior Government Advocate, Assam for respondent nos. 2 and 3.

This is an application filed under Section 115 of the CPC challenging the order dated

01.04.2024 passed by the learned Civil Judge (Senior Division), Dhubri in Misc. Appeal No. 11/2023.

The respondent no. 1 filed a suit being T.S. No. 93/2020 before the Civil Judge (Junior Division) No. 1, Dhubri against the present petitioner praying for a decree declaring his right, title and interest over a plot of land.

The respondent no. 1, being the plaintiff, filed an application under Order 39 Rule 1 and 2 of the CPC seeking injunction. The trial court refused to grant injunction. Therefore, he has filed an appeal being Misc. Appeal No. 11/2023 before the court of the learned Civil Judge (Senior Division) Dhubri. The appellate court allowed the appeal but did not mention what type of relief is granted in favour of the appellant.

I have considered the submission made by the learned counsel of both sides.

On plaint reading of the impugned order, it appears that though the appellate court allowed the appeal and did not mention the type of injunction granted by it, the defendants/petitioners are not aggrieved by the aforesaid order.

Mr. Sarma has pointed out that though the type of injunction has not been mentioned in the impugned order, the trial court might consider that the prayer for injunction made in the application was granted.

I have decided to agree with Mr. Sarma. The impugned order is ambiguous. Therefore, the impugned order dated 01.04.2024 passed by the learned Civil Judge (Senior Division), Dhubri in Misc. Appeal No. 11/2023 is bad in law and stands set aside.

The revision petition is disposed of accordingly.

JUDGE

kkk

Comparing Assistant