

GAHC010131132017



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

Case No. : FAO/34/2017

MR ARMAN ALI
S/O LATE RAMJAN ALI, R/O AMBARI BYE LANE, GNB ROAD, HOUSE NO.
15, GUWAHATI-01, IN THE DIST. OF KAMRUP M, ASSAM, PH. NO. 95085-
89035

VERSUS

MR MOINUL HAQUE and 4 ORS
S/O LATE ISHA HAQUE

2:SMTI ANJANA MOYEE
W/O MR. MOINUL HAQUE
BOTH ARE R/O HEDAYATPUR
.S. LATASIL
GUWAHATI-03 IN THE DIST. OF KAMRUP M
ASSAM.

3:SURENDRA KUMAR BARUA

S/O LATE SASHIDHAR BARUA

4:DEBARSHI BARUA

S/O LATE SASHIDHAR BARUA

5:SMTI MEGHALI BARUA

W/O SHRI DEBAR BARUA
ALL ARE R/O AMBARI BYE LANE
GNB ROAD
HOUSE NO. 15
GUWAHATI-01

DIST. KAMRUP M
ASSAM

Advocate for the Petitioner : MRA K RAI

Advocate for the Respondent : MR. R K BHUYAN (r-1,2)

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

Date : 02-04-2024

JUDGMENT & ORDER

The instant appeal arises against the order dated 28.02.2017 passed in Misc. (J) Case No.413/2016 in Title Suit No.279/2016 whereby the learned Trial Court had rejected the application for injunction as sought for by the plaintiff/appellant herein.

2. This Court had duly heard the learned counsel appearing for the parties and had also enquired as to what is the stage of the suit, taking into account that the suit was filed in the year 2016 and presently the appeal is being taken up in the year 2024. Mr. RK Bhuyan, the learned counsel appearing for the respondent submitted that the suit is at the stage of evidence.

3. Be that as it may, this Court has duly taken note of the deed of sale dated 11.01.2013 on the basis of which the plaintiff/appellant claims his the right to file the suit. The issue involved is not in respect to the land which was conveyed vide the deed of sale, but the issue pertains to as regards the use of the

common entrance measuring approximately 13 feet wide from the front side of the scheduled land which is the land that was conveyed.

4. The learned counsel appearing on behalf of the appellant submits that though the plaintiff/appellant used to park his vehicle over the common entrance, but the opposite parties used to disturb him, for which the plaintiff had been compelled to institute the suit and sought for injunction.

5. This Court takes into account that the instant appeal arises out of an injunction order and the scope of interference by this Court is limited. Be that as it may, it has been submitted by the learned counsel appearing on behalf of the appellant/plaintiff that the appellant used this common entrance for his ingress and egress to the land conveyed vide the deed of sale dated 11.01.2013 and he submits that till the disposal of the suit, the ingress and egress of the plaintiff to the said suit land should not be disturbed.

6. The learned counsel appearing on behalf of the respondents submitted that the respondents had not disturbed the ingress and egress of the plaintiff to the land conveyed vide deed of sale dated 11.01.2013, but, however, the respondents have objection in the parking of the vehicle by the appellant/plaintiff over the common passage.

7. Taking into account the above, this Court passes a limited injunction till the disposal of the suit that the respondents shall not disturb the ingress and egress of the appellant/plaintiff to the Schedule B land. This Court, however, makes it

very clear that during the pendency of the suit, the appellant/plaintiff shall not park the vehicle in the common passage.

8. With the above, the instant appeal stands disposed of.

JUDGE

Comparing Assistant