

GAHC010135782024



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

Case No. : CRP(IO)/226/2024

MON TALUKDAR AND ANR
S/O- LANKESWAR TALUKDAR, R/O- SARTHEBARI TOWN, WARD NO. 4,
MOUZA- SARUKHETRI, DIST. BARPETA, ASSAM

2: PARESH DEKA
S/O- LATE HAHIRAM DEKA
R/O- BARSHALA BILAR PATHAR
MOUZA- SARUKHETRI
DIST. BARPETA
ASSA

VERSUS

KRISHNA KANTA PATOWARY
A PHYSICALLY AND MENTALLY DISABLED PERSON REPRESENTED BY
HIS WIFE SRI HIRAMANI PATOWARY, R/O- VILL.- SARTHEBARI, LASIM
(BENGAPARA), MOUZA- SARUKHETRI, DIST. BARPETA, ASSAM

Advocate for the Petitioner : MR. DITUL DAS, MS TINLUNG

Advocate for the Respondent : MR. N HAQUE, MR. A K AZAD, MR M HUSSAIN, MR. S R
BARBHUIYA

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

03.10.2024

1. Heard Mr. D. Das, the learned counsel for the petitioners. Also heard

Mr. N. Haque, learned counsel for the respondent.

2. This petition under Article 227 of the Constitution of India has been filed by the petitioners, impugning the order dated 10.05.2024, passed by the learned Civil Judge (Senior Division), Barpeta in Misc(J) Case No. 61/2023, in Misc Appeal No. 1/2024, refusing to stay the order dated 29.04.2024, passed by the learned Civil Judge (Junior Division) No. 2, Barpeta in Misc(J) Case No. 61/2023 in Title Suit No. 114/2023.

3. The facts relevant for consideration of this revision petition is that the respondent herein had filed a suit for partition as well as for permanent injunction and also challenging the sale deed in respect of the Schedule-B Land of the plaint filed by him before the Court of learned Civil Judge (Junior Division) No. 2, Barpeta. The said suit was registered as Title Suit No. 114/2023. In the said suit the respondent as plaintiff/petitioner has also filed an application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 seeking ad-interim relief of temporary injunction against the present petitioners, who were arrayed as defendants in the said suit from dispossessing the plaintiff (respondent) herein.

4. In the said execution case the Trial Court granted temporary injunction in favour of the plaintiff (respondent) herein.

5. Being aggrieved with the said order of temporary injunction, the present petitioner preferred an application under Order 43 Rule 1(r) of the Code of Civil Procedure before the Court of learned Civil Judge (Junior Division) No. 2, Barpeta and the said case was registered as Misc Appeal No. 1/2024. The said appeal is admitted by the Court of learned Civil Judge (Junior Division) No. 2, Barpeta and is pending for disposal in the aforesaid Misc Appeal No. 1/2024.

6. The present appellant also filed an application under Order 41 Rule 5

for stay of the injunction granted in favour of the plaintiff by the Court of learned Civil Judge (Junior Division) No. 2, Barpeta in Misc(J) Case No. 61/2023.

7. The Court of learned Civil Judge (Junior Division) No. 2, Barpeta, by order dated 10.05.2024 disposed of the application for stay of the injunction order against the said order.

8. The present revision petition has been filed by the petitioner, who was the defendant before the Trial Court.

9. The learned counsel for both the sides have submitted that by order dated 03.07.2024, this Court has directed to maintain status-quo in respect of the Schedule-B(2) land as mentioned in the plaint.

10. As learned counsel for both the sides have agreed that as the appeal filed by the defendant under Order 43 Rule 1(r) is pending before the Court of learned Civil Judge (Senior Division), Barpeta, this revision petition may be disposed of by directing to disposed of the Misc Appeal No. 1/2024 within 3(three) months and till then both the parties have undertaken that the parties have agreed to maintain status-quo till the pendency of the Misc Appeal No. 1/2024 before the Court of the learned Civil Judge (Senior Division), Barpeta.

11. The First Appellate Court before which a Misc. Appeal is pending shall not be influenced in arriving at a decision in the said appeal pending before it by this order in any manner.

12. With the above observations and directions, this revision petition is accordingly disposed of.

JUDGE

Comparing Assistant