

GAHC010152522023



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

Case No. : FAO/35/2023

ASHOK KR. HIMATSINGKA
S/O LATE RAM PRASAD HIMATSINGKA,
R/O HOUSE NO. 5, 1ST FLOOR, C.K. AGARWALA ROAD, P.O.- UZANBAZAR,
P.S.- LATASIL, GUWAHATI- 781001, DIST.- KAMRUP (M), ASSAM.

VERSUS

ALKA AGARWAL
D/O LATE RAM PRASAD HIMATSINGKA,
RESIDING AT 77A, CHRISTOPHER ROAD, CHINA TOWN, P.S.- TANGRA, P.O.-
GOBINDA KATTICK ROAD, KOLKATA- 700046. REP. BY GENERAL POWER
OF ATTORNEY HOLDER, MR. SATYA CHARAN KOLEY, S/O PARITOSH
KOLEY, R/O VILL.- JAGANNATHPUR, P.O.- NALIKUL, P.S.- HARIPAL, DIST.-
HOOGHLY, PIN- 712407.

For the Petitioner(s) : Mr. R. K. Bhuyan, Advocate

For the Respondent(s) : None appears.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 01.05.2024

1. The instant appeal has been preferred under Order XLIII Rule 1(r) read with Section 104 of the Code of Civil procedure, 1908 against the order dated 29.03.2023 passed in Misc. (J) Case No.368/2021 arising out of Title Suit No.257/2021.

2. From a perusal of the said order, it reveals that the learned Trial Court directed the parties to maintain status quo as regards the suit properties till the disposal of the suit.

3. This Court has duly enquired with Mr. R. K. Bhuyan, the learned counsel appearing on behalf of the Appellant as to what is the present stage of the suit and the learned counsel submitted that the suit is at the stage of evidence. He however submitted that the Appellant herein is primarily aggrieved by the observations which have been made in the said injunction order inasmuch as if these observations are not interfered with and taken into consideration by the learned Trial Court at the trial of the suit, it would prejudice the Appellant.

4. This Court had duly taken note of the impugned order and is of the opinion that the said order do not fall within the mischief of being unreasonable, arbitrary, irrational or in violation to the well settled mandate for grant of an injunction. Under such circumstances, this Court is not inclined to interfere with the impugned order dated 29.03.2023.

5. Be that as it may, this Court makes it very clear that the observations so made by the learned Trial Court in the said injunction order shall only be construed as observation for deciding the temporary injunction application and the same shall not affect the decision of the learned Trial Court in the suit.

6. Accordingly, the instant appeal stands disposed of.

JUDGE

Comparing Assistant