

GAHC010152582023



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

Case No. : FAO/41/2023

ARCHANA DEWRIARY
W/O SHRI RATNAKANTA DEWRLARY,
R/O LAIMATI, VILL.- KHATANGPANI, MOUZA- TIRAP, DIST.- TINSUKIA,
ASSAM, PRESENTLY RESIDING AT RUKMININAGAR, NEAR WIRELESS
BUS, STOPPAGE, P.S.- DISPUR, GUWAHATI- 22, ASSAM.

VERSUS

M/S SWASTIK ENGINEERS AND ANR.
A PROPRIETORSHIP FIRM, HAVING REGISTERED OFFICE AND PRINCIPAL
PLACE OF BUSINESS AT G.S. ROAD, CHRISTIAN BASTI, P.S.- DISPUR,
GUWAHATI- 781006, REP BY ITS PROPRIETOR, SHRI PRASANTA KUMAR
BARUAH, S/O SHRI UMESH CHANDRA BARUAH.

2:PRASANTA KUMAR BARUAH
S/O SHRI UMESH CHANDRA BARUAH

R/O HOUSE NO. 8
SURUSH MUKHI PATH
R.G. BARUAH ROAD
GUWAHATI
KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. R K BHUYAN

Advocate for the Respondent : MR. S SHARMA

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

13.03.2024

The instant appeal has been filed under Order XLIII Rule 1(r) of the Code of Civil Procedure, 1908 (for short, the Code) challenging the order dated 17.06.2023 passed in Misc.(J) No.323/2020 arising out of Title Suit No.125/2011. Vide the impugned order dated 17.06.2023, the application seeking injunction, restraining the opposite parties, their men, agents from alienating, selling, letting out or otherwise dealing with the schedule X property or any part thereof, was rejected.

2. This Court during the course of the hearing had asked the learned counsels appearing on behalf of both the parties as to what is the stage of the suit, taking into account that the said Title Suit pertains to the year 2011. It was submitted at the Bar that the said Suit is at the stage of cross examination of the defendants' witnesses. Therefore, it is seen that the suit is at the stage of culmination. Under such circumstances, this Court is not inclined to interfere with the order dated 17.06.2023 passed in Misc(J) Case No.323/2020, more so, when such an order has been passed in exercise of the discretionary jurisdiction by the learned trial court. Accordingly, the instant appeal stands dismissed.

3. This Court, however, before parting with the records, finds it pertinent to observe that the principles of *Lis Pendens* as conceptualized in Section 52 of the Transfer of Property Act 1882 shall duly apply in respect of any alienation, selling, letting out or otherwise dealing with the schedule X-property or any part

thereof. The same shall be duly taken note of by the learned trial court while deciding the suit.

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

JUDGE

Comparing Assistant