

GAHC010172072023



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

Case No. : FAO/47/2023

VIRAJ TRUST
(REGISTERED UNDER THE SOCIETIES REGISTRATION ACT, 1860 HAVING
ITS REGISTERED OFFICE AT DR. BASUS ROAD, DIBRUGARH, PIN- 786001.)
REP. BY ITS SECRETARY SWAMI PURNABRATANANDA, SPIRITUAL SON
OF SWAMI PRANABANANDAJI MAHARAJ, AGED ABOUT 47 YEARS,
RESIDENT OF RIJWATHRI, PANDU TEMPLE GHAT, P.S.- JALUKBARI,
KAMRUP (METRO), ASSAM, GUWAHATI- 781012.

VERSUS

RAJA DAS AND ANR.
S/O LATE BHUPEN DAS,
C/O JYOTI DAS, NEAR SBI, BHARALUMUKH BRANCH, A. T. ROAD,
BHARALUMUKH, GUWAHATI- 781009, KAMRUP (M), ASSAM.

2: BABUL KAKOTI
S/O HARURAM KAKOTI RJWATHRI ASHRAM LAND
OM BABA ASHRAM
P.O.- PANDU
PIN- 781012
P.S.- JALUKBARI
KAMRUP (METRO)
ASSAM

For the Appellant(s) : Mr. T. R. Sarma, Advocate

For the Respondent(s) : Mr. A. Hawari, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 19.06.2024

The instant appeal under order XLIII Rule 1(r) of the Code of Civil Procedure, 1908 (for short "the Code") is directed against the order dated 21.06.2023 being aggrieved on account of not granting an ad-interim ex-parte order of injunction by the Land Grabbing Case Special Tribunal, Kamrup (M) at Guwahati in Misc. Case No.75/2023.

2. The order no doubt is an order passed in a proceedings under Order XXXIX Rule 1 and 2 read with Section 151 of the Code however, the said order dated 21.06.2023 is an order passed by the Land Grabbing Case Special Tribunal, Kamrup (M). Under such circumstances, an appeal does not lie before this Court under Order XLIII Rule 1(r) read with Section 104 of the Code as the said order is not passed by a Civil Court but by a Tribunal wherefrom an appeal lies before the Appellate Tribunal but yet to be constituted. Under such circumstances, this Court converts the instant proceedings in the interest of justice to a proceedings under Article 227 of the Constitution.

3. This Court has been duly informed that the Respondent had duly put their appearance before the learned Land Grabbing Case Special Tribunal, Kamrup (M) in Misc. Case No.75/2023. Under such circumstances, this Court is of the opinion that continuation of two parallel proceedings before this Court as well as the learned Land Grabbing Case Special Tribunal, Kamrup (M) would not be in the interest of justice. Under such

circumstances this Court directs the learned Land Grabbing Case Special Tribunal, Kamrup (M) to take immediate steps for disposal of Misc. Case No.75/2023 by hearing the parties to the said application so filed under Order XXXIX Rule 1 and 2 read with Section 151 of the Code.

4. Taking into account that this Court vide an order dated 07.08.2023 in I.A.(Civil) No.2240/2023 had directed the parties to maintain status quo over the suit property and also clarified that no construction activities shall be undertaken by any of the parties, this Court directs that the said order shall remain in force till the disposal of Misc. Case No.75/2023 which arose out of Sessions (Land Grabbing) Case No.31/2022.

5. This Court however makes it very clear that the learned Land Grabbing Case Special Tribunal, Kamrup (M) shall dispose of Misc. Case No.75/2023 on its own merit without being influenced by the order passed herein or the order dated 07.08.2023.

6. With above observations and directions, the instant appeal stands disposed of.

JUDGE

Comparing Assistant