

GAHC010198572023



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

Case No. : FAO/55/2023

BAIJANTI BHAJANKA AND 2 ORS
W/O LATE BALBIR KUMAR BHAJANKA,
RESIDENT OF MAKUM ROAD, TINSUKIA, PO SUKAN PUKHURI, PS AND
DIST TINSUKIA, ASSAM .
TO BE REPRESENTED BY HER ATTORNEY HOLDER SRI BIRENDRA
KUMAR BHAJANKA,

2: SRI BIPIN BHAJANKA
S/O LATE BALBIR KUMAR BHAJANKA

RESIDENT OF MAKUM ROAD
TINSUKIA
PO SUKAN PUKHURI
PS AND DIST TINSUKIA
ASSAM .

3: SRI BIRENDRA KUMAR BHAJANKA
S/O LATE BALBIR KUMAR BHAJANKA

RESIDENT OF MAKUM ROAD
TINSUKIA
PO SUKAN PUKHURI
PS AND DIST TINSUKIA
ASSAM

VERSUS

AMRIT KAUR AND ANR.
W/O LATE TEZA SINGH, RESIDENT OF BORDOLOI NAGAR, PO , PS AND
DIST TINSUKIA, ASSAM

2:SRI SHAMSHER SINGH
S/O LATE TEZA SINGH
RESIDENT OF BORDOLOI NAGAR

PO
PS AND DIST TINSUKIA
ASSA

Advocate for the Petitioner : MR. S BANIK

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

19-02-2024

Heard Ms. S. Bora, learned counsel appearing for the petitioner. Also heard Mr. K. N. Choudhury, learned Senior Counsel assisted by Mr. R. J. Das, learned counsel appearing for the respondents.

This is an application filed under Order XLIII Rule 1 (r) CPC challenging the order dated 16.02.2023 passed by the learned Addl. District Judge, FTC, Tinsukia in Misc. (J) Case No. 21/2023 arising out of L.G. Case No. 11/2023.

The petitioner has filed an application filed under Order XXXIX Rules 1 & 2 read with Section 151 of the CPC praying for injunction. The Trial Court refused to grant *ex-parte* injunction and issued notice to the other side.

Being aggrieved by the aforesaid order, the present appeal has been filed.

After hearing both sides, this Court is of the opinion that the Trial Court should hear both sides before passing any order. Therefore, the matter is remanded to the Trial Court. The present respondents shall be given an opportunity to file an objection on the fixed date i.e. on 18.03.2024 thereafter the Trial Court shall hear both sides and dispose of the matter.

With the aforesaid directions, the appeal is allowed and disposed of.

JUDGE

Comparing Assistant