

GAHC010211712024



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

Case No. : CRP(IO)/402/2024

SYED AMEENUL ALAM AND ANR
S/O LATE SHAMSUL ALAM,
RESIDENT OF S.S ROAD, LAKHTOKIA GUWAHATI KAMRUP M ASSAM
781001

2: SYEDA REHANA ALAM
W/O SYED AMEENUL ALAM

RESIDENT OF S.S ROAD
LAKHTOKIA GUWAHATI KAMRUP M ASSAM 78100

VERSUS

BALJIT SINGH AND 2 ORS
S/O SRI MOHONJIT SINGH,
RESIDENT OF MANJIT INDUSTRIES (PUNJAB SHOES) DANISH ROAD,
LAKHTOKIA, GUWAHATI, KAMRUP M ASSAM 781001

2:INDERJIT SINGH
S/O SRI MOHONJIT SINGH

RESIDENT OF MANJIT INDUSTRIES (PUNJAB SHOES) DANISH ROAD
LAKHTOKIA
GUWAHATI
KAMRUP M ASSAM 781001

3:SRI MOHANJIT SINGH
S/O LATE MANJIT SINGH

RESIDENT OF MANJIT INDUSTRIES (PUNJAB SHOES) DANISH ROAD
LAKHTOKIA
GUWAHATI
KAMRUP M ASSAM 78100

Advocate for the Petitioner : MR. B D DEKA, MR A BHATRA,MR A DEKA,N
CHAUDHURY,MR. M DAS

Advocate for the Respondent : MR B SHARMA (R-1 TO 3), MR. M HASSAN (R-1 TO 3)

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

04.10.2024

- 1.** Heard Mr. B.D. Deka, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned counsel for the respondents.
- 2.** This application under Article 227 of the Constitution of India, has been filed by the petitioners, impugning the order dated 27.09.2024, passed by the Court of learned Civil Judge (Senior Division) No. 2, Kamrup (M) in Misc. (J) No. 898/2024, arising out of Misc. Appeal No. 16/2024, whereby the First Appellate Court has issued notice to the opposite parties in said Misc. (J) Case and without granting any ad interim injunction as prayed for by the present petitioners.
- 3.** The brief facts for consideration of the instant revision petition are that the present petitioner is the owner of the schedule property and the respondents are the tenants of the present petitioner in respect of the said property and to that effect there exists a tenancy agreement between both the parties, which was executed on the 1st day of April, 2021. The petitioners had filed a Title Suit before the Court of learned Civil Judge (Junior Division) No. 4, Kamrup (M) for violation of the tenancy agreement by the respondents as well as for *bonafide* requirement. The said suit was registered as Title Suit No. 291/2024. In the said suit, the petitioners also filed an application under Order

XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 read with Section 151 of the said Code, which was registered as Misc. (J) Case No. 448/2024. At the time of the filing of the said Misc.(J) case, it was alleged that the respondents had accumulated construction materials in the suit premises and broke down the mezzanine floor and also removed the tiles and it was apprehended that they would be changing the nature of the suit property by making permanent construction thereon.

4. Considering the nature of urgency involved in the case, the petitioners had also prayed for grant of an ad-interim injunction pending issuance of notice to the opposite parties. However, the Trial Court had only issued notice to the respondents fixing the next date as 22.10.2024 and no ad-interim injunction was granted.

5. Against the refusal of grant of ad-interim injunction by the Trial Court, the petitioner preferred a miscellaneous appeal under Section 104 read with Order 43 Rule 1(r) of the Code of Civil Procedure, 1908 which was registered as Misc. Appeal No. 16/2024, where a prayer was made for grant of ad-interim injunction. However, by the impugned order dated 27.09.2024, the First Appellate Court issued notice to the respondents fixing the matter on 19.11.2024 and also call for the LCR from the Trial Court.

6. The learned counsel for the petitioners has submitted that the respondents have taken up process for permanent construction by filing up construction materials and after the provisions of Section 7 of the Assam Urban Areas Rent Control Act, 1972, it is the duty of the landlord to make such repair appears as necessary in the rented premises.

7. It is only after on the failure of the landlord the tenant may do so that to after seeking prior approval of the Court under the provisions of the statute.

8. The learned counsel for the respondents has submitted that the respondents have not obtained any deed for making any construction. He also submits that no permanent construction is being made and what is contemplated by the respondents is only putting up new tiles as well as painting of the suit premises. Both the learned counsels have also agreed that as the matter is fixed before the Trial Court on 22.10.2024, the injunction application filed by the applicant may be considered after hearing both the parties on that day.

9. Considering the submissions made by the learned counsel for both sides, this revision petition is disposed of with a direction to the Trial Court to consider the application for temporary injunction filed by the petitioner after hearing learned counsel for both the sides.

10. In the meanwhile, the respondents shall not make any major construction changing the nature of the suit premises.

11. With the above observations, this revision petition is disposed of.

JUDGE

Comparing Assistant