

GAHC010226302024



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

Case No. : CRP(IO)/435/2024

ON THE DEATH OF HARI PRASAD DOWERAH HIS LEGAL HEIRS AMRIT
DOWERAH
S/O LATE HARI PRASAD DOWERAH,
RESIDENT OF LONGJONG GAON, PO AND PS NAHARKATIA, DIST
DIBRUGARH, ASSAM

VERSUS

TATA TEA LIMITED AND 2 ORS
HAVING ITS REGISTERED OFFICE AT BISPOPOFRAY ROAD, KOLKATA,
WEST BENGAL, 700020.

2:THE AMALGAMATED TEA COMPANY ESTATE COMPANY
A LIMITED LIABILITY COMPANY INCORPORATED IN ENGLAND AND ITS
PRINCIPAL OFFICE IN KOLKATA CARRYING ON BUSINESS OF TEA
PLANTATION AND MANUFACTURE IN INDIA AND OWNING AMONGST
OTHERS NAHAKATIA TEA ESTATE
PO NAHARKATIA
DIST DIBRUGARH ASSAM 786610

3:TATA FINALAY LIMITED
A COMPANY INCORPORATED IN INDIA AND HAVING ITS REGISTRAR
OFFICE AT BOMBAY HOUSE
34 HOMY REDY STREET
FORT
BOMBAY-400023 CARRYING ON TEA PLANTATION AND MANUFACTURE
AND OWNING AMONST OTHERS NAHARKATIA TEA ESTATE
PO NAHARKATIA
DIST DIBRUGARH
ASSAM 78661

Advocate for the Petitioner : MR. S SAHU, MR. M J GOGOI

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

04.11.2024

Heard Mr. S. Sahu, learned counsel for the petitioner.

2. This civil revision petition, under Article 227 of the Constitution of India read with Section 151 of the C.P.C. is preferred by the petitioner challenging the correctness or otherwise of the order dated 01.08.2024, passed in Petition No. 298/2024, arising out of Title Execution Case No. 05/2019 and also the order dated 27.05.2024, passed in Execution Case No. 05/2019, by the learned Civil Judge (Junior Division), Naharkatia.

3. Mr. Sahu, learned counsel for the petitioner submits that the petitioner is the judgment debtor of the Title Execution Case No. 05/2019, pending before the learned Civil Judge (Junior Division), Naharkatia. In the said execution case, the petitioner as judgment debtor had filed a preliminary objection on 16.10.2012 and a final objection on 13.05.2022, and the same are yet to be disposed of. But, vide order dated 27.05.2024, the learned executing court has already directed that the writ be issued after proper verification. Mr. Sahu further submits that if the writ is issued by the learned executing court without disposing of the preliminary objection as well as the final objection, the petitioner will be gravely prejudiced. Therefore, it is contended to set aside the impugned order dated 01.08.2024, passed in Petition No. 298/2024, arising out of Title Execution Case No. 05/2019 and also the order dated 27.05.2024, passed in Execution Case No. 05/2019, by the learned Civil Judge (Junior Division), Naharkatia.

4. Having heard the submission of learned counsel for the petitioner, I have carefully gone through the petition as well as the documents placed on record

and also the order dated 01.08.2024, passed in Petition No. 298/2024, arising out of Title Execution Case No. 05/2019 and also the order dated 27.05.2024, passed in Execution Case No. 05/2019, by the learned Civil Judge (Junior Division), Naharkatia.

5. It appears that the petitioner has filed a preliminary objection on 16.10.2012 and a final objection on 13.05.2022, and the same are yet to be disposed of by the learned executing court.

6. Having considered the submission of learned counsel for the petitioner and also considering the facts and circumstances on record, this court is inclined to dispose of this petition by directing the learned executing court to hear and dispose of the preliminary objection as well as the final objection, before issuing writ in the aforementioned execution proceeding.

7. In terms of above, this civil revision petition stands disposed of at this motion stage itself.

8. The petitioner shall obtain a certified copy of this order and shall place the same before the learned executing court within a period of one week from today. Thereafter, the learned executing court shall complete the exercise within a period of one week from the date of receipt of the certified copy of this order.

JUDGE

Comparing Assistant