

GAHC010226772014



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

Case No. : CRP/290/2014

ON THE DEATH OF KANTI BHUSAN DEB, HIS LEGAL HEIRS and 2 ORS.
KARIMGANJ

1.1: SMTI USHA RANI DEB
W/O LATE KANTI BHUSAN DEB
R/O VILLAGE- NAYAPATTAM (MASLI)
POST OFFICE- BHANGABAZAR- 788701
DISTRICT- KARIMGANJ
ASSAM.

1.2: SRI BIKASH DEB
S/O LATE KANTI BHUSAN DEB
R/O VILLAGE- NAYAPATTAM (MASLI)
POST OFFICE- BHANGABAZAR- 788701
DISTRICT- KARIMGANJ
ASSAM.

1.3: SRI PROKASH DEB
S/O LATE KANTI BHUSAN DEB
R/O VILLAGE- NAYAPATTAM (MASLI)
POST OFFICE- BHANGABAZAR- 788701
DISTRICT- KARIMGANJ
ASSAM.

1.4: SRI KRISHNA PADA DEB
S/O LATE KANTI BHUSAN DEB
R/O VILLAGE- NAYAPATTAM (MASLI)
POST OFFICE- BHANGABAZAR- 788701
DISTRICT- KARIMGANJ
ASSAM.

1.5: SMTI MUNNI RANI CHOUDHURY
D/O LATE KANTI BHUSAN DEB
AND W/O SRI PORITOSH CHOUDHURY

R/O VILLAGE- NAYAPATTAM (MASLI)
POST OFFICE- BHANGABAZAR- 788701
DISTRICT- KARIMGANJ
ASSAM.

1.6: SMTI RUMI DAS
D/O LATE KANTI BHUSAN DEB AND W/O SRI ALOK DAS
R/O VILLAGE- NAYAPATTAM (MASLI)
POST OFFICE- BHANGABAZAR- 788701
DISTRICT- KARIMGANJ
ASSAM.

2: DIPTI BHUSAN DEB
S/O LT. KULESH CHANDRA DEB

3: LAKSHMI KANTA DEB
S/O LT. KULESH CHANDRA DEB
ALL R/O NAYAPATAN MASLI
P.O. BHANGABAZAR
DIST- KARIMGANJ
ASSA

VERSUS

MD. ABDUL RAHMAN and 3 ORS
S/O LT. JAMSHED ALI

2:NRIPENDRA DAS ALIAS MONI
S/O LT. BROJENDRA DAS

3:PATINDRA DAS
S/O LT. BROJENDRA DAS

4:SUBASHINI DAS
W/O LT. DIGENDRA DAS
ALL R/O NAYAPATAN
MASLI
P.O. BHANGABAZAR
DIST- KARIMGANJ
ASSA

For the petitioner (s) : Mr. N. Dhar, Advocate

For the respondent (s) : Mr. M. J. Quadir, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

22.04.2024

Heard Mr. N. Dhar, the learned counsel for the petitioners and Mr. M. J. Quadir, the learned counsel for the respondents.

2. This is an application under Article 227 of the Constitution challenging the order dated 22.05.2014 passed by the learned Civil Judge, Karimganj in Misc. Appeal No.15/2013 whereby the learned First Appellate Court directed both the parties to maintain status quo with regard to possession and enjoyment and nature and features of the suit land till the disposal of the main suit.

3. The facts leading to the filing of the instant proceedings briefly stated would be that the petitioners herein as plaintiffs had instituted a suit being Title Suit No.289/2012 seeking inter-alia a declaration of their right, title and interest along with the proforma defendant Nos.5 to 8 over the suit land through inheritance; for confirmation of possession of the plaintiffs and the proforma defendant Nos.5 to 8 over the suit land and for permanent injunction restraining the principal defendants from creating disturbances in using and possessing the suit land by the plaintiffs and the proforma defendant Nos.5 to 8 and restraining the principal defendants from changing the existing nature and features of the suit land. Along with the said suit, an injunction application was filed seeking inter-alia for a temporary injunction restraining the principal defendants from creating disturbances for using and possessing of the suit land by the plaintiffs and

the proforma defendant Nso.5 to 8 and restraining the principal defendants from changing the existing nature and features of the suit land till the disposal of the main suit. The said injunction application was registered and numbered as Misc. Case No.202/2012. To the said suit, the respondents herein as defendants have filed their written statement and contended inter-alia that the land is a public/village path which was earlier gopath in existence in the locality since time immemorial. The entire case of the plaintiffs was denied by the defendants in the said suit. To the said effect, a written objection was also filed to the injunction application.

4. The learned Trial Court vide an order dated 06.03.2012 disposed of the said injunction application being Misc. Case No.202/2012 thereby directing that the status quo be maintained as regards the individual possession over the suit land as on the date of the said order till the final disposal of the main suit. The plaintiffs being aggrieved preferred an Appeal against the said order dated 06.03.2013 passed by the learned Trial Court which was registered and numbered as Misc. Appeal No.15/2013. The learned First Appellate Court, i.e. the Court of the Civil Judge, Karimganj vide an order dated 22.05.2014 disposed of the said Appeal directing both the parties to maintain status quo with regard the possession and enjoyment of the nature and features of the suit land till disposal of the main suit. Being aggrieved, the present application has been filed under Article 227 of the Constitution.

5. I have heard the learned counsel appearing on behalf of the parties and have given anxious consideration to the submission so made. From the submission so made by the learned counsel for the petitioners, it appears that the petitioners herein seek for an order directing the learned

Trial Court to decide as to which of the parties are in possession of the suit land based upon respective pleadings and the documents filed and pass appropriate order.

6. This Court has duly taken note of that the said suit has been pending for more than a decade and it has been brought to the attention of this Court that the said suit is at the stage of cross-examination of the plaintiffs witnesses. The reliefs which have been sought for by way of the instant application, in the opinion of this Court, can only be granted as the final reliefs in the suit.

7. This Court having taken note of that the suit is at the advance stage is not inclined to interfere with the order passed by the learned Trial Court as well as the learned First Appellate Court. However, this Court is of the opinion that as the suit has been pending for more than a decade, the said suit be disposed of at the earliest.

8. This Court, therefore, requests the learned Trial Court to dispose of the said suit within a period of 6 (six) months from the date a certified copy of this order is placed before the learned Trial Court and the learned Trial Court, if so necessary, take up the suit on day-to-day basis for an early disposal of the said suit.

9. In view of the above, the instant petition stands disposed of.

JUDGE