

GAHC010231972024



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

Case No. : CRP(IO)/452/2024

RABIN DEY
S/O LT SUKHRANJAN DEY R/O MANGALDAI TOWN WARD 5 NATUNPARA
P.O AND P.S MANGALDAI DIST DARRANG ASSAM

VERSUS

ON THE DEATH OF KAUSIK DAS HIS LEGAL HEIRS LOVITA DAS AND 2
ORS
W/O LT KAUSIK DAS R/O MANGALDAI TOWN WARD NO 5 P.O AND P.S
MANGALDAI DIST DARRANG ASSAM PIN 784125

1.2:MOULI DAS (MINOR)
D/O LT KAUSIK DAS REP BY LOVITA DAS R/O MANGALDAI TOWN WARD
NO 5 P.O AND P.S MANGALDAI DIST DARRANG ASSAM PIN 784125

2:TANAYA DAS
D/O LT TARANI DAS R/O MANGALDAI TOWN WARD NO 5 P.O AND P.S
MANGALDAI DIST DARRANG ASSAM PIN 784125

3:KAMAL DAS
S/O LT CHITTARANJAN DAS R/O MANGALDAI TOWN WARD NO 5 P.O AND
P.S MANGALDAI DIST DARRANG ASSAM PIN 78412

Advocate for the Petitioner : MR. D A KAIYUM, MR. B C DAS,MR. S H RAHMAN,MR. M S
MONDAL

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 13.11.2024

Heard Mr. S. Dutta, learned Senior Counsel assisted by Mr. D.A. Kaiyum, learned counsel for the petitioner.

2. In this petition, under Article 227 of the Constitution of India, the petitioner has challenged the correctness or otherwise of the order dated 01.10.2024, passed by the learned Civil Judge (Junior Division), No. 2, Darrang, Mangaldai, in Misc.(J) Case No. 146/2013, arising out of Title Suit No. 137/2013.

3. It is to be noted here that vide impugned order dated 01.10.2024, the learned Civil Judge (Junior Division), No. 2, Darrang, Mangaldai, in Misc.(J) Case No. 146/2013, the learned trial court has directed both the parties of the suit to maintain the status quo with respect to the structures identified in the commission report on the disputed land (Schedule – A) and the existing ingress and egress to the plaintiff's land and also directed that no obstructions should be created or removed that would affect the existing property, until further order from the court.

4. Mr. Dutta, learned Senior Counsel appearing the petitioner, referring to the plaint of the Title Suit No. 137/2013, which is enclosed with the additional affidavit, as Annexure – 18, submits that in the said plaint, the plaintiffs (respondents herein) had prayed for declaration of easement of the said path described in the Schedule – 'B' land, mentioned below of the plaint. Mr. Dutta further submits that the learned trial court vide impugned order dated 01.10.2024, has directed to maintain status quo with respect to the structures identified in the report on the disputed land (Schedule – 'A') and that the Schedule – A land is belonging to the petitioner herein and the respondents herein as plaintiffs has

instituted the Title Suit No. 137/2013 for declaration of his right in respect of Schedule – 'B' land of the plaint. Mr. Dutta also submits that the impugned order is illegal, and also arbitrary as vide said order, it was directed to maintain status quo, as Schedule – 'A' of the plaint which is the property of the petitioner and it causes serious hardship to the petitioner. Under such circumstances, Mr. Dutta submits that the impugned order may be set aside and the matter may be remanded to the learned trial court to hear the parties afresh and to pass a fresh order.

5. 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 perused the impugned order dated 01.10.2024, passed by the learned Civil Judge (Junior Division), No. 2, Darrang, Mangaldai, in Misc.(J) Case No. 146/2013, arising out of Title Suit No. 137/2013.

6. It appears from the plaint, Annexure – 18, that the relief is being claimed in respect of Schedule – B land of the plaint. But, the learned trial court vide order dated 01.10.2024, has directed to maintain status quo in respect of Schedule – 'A' land, in respect of which no relief is being claimed in the plaint. As submitted by Mr. Dutta, Schedule – 'A' land is the property of the petitioner. That being the position, there is no question of granting status quo in respect of Schedule – 'A' land and as such, the impugned is arbitrary and illegal.

7. In view of above, the impugned order dated 01.10.2024, passed by the learned Civil Judge (Junior Division), No. 2, Darrang, Mangaldai, in Misc.(J) Case No. 146/2013, arising out of Title Suit No. 137/2013, stand set aside and quashed. Accordingly, the matter is remanded back to the learned trial court to hear the parties afresh and thereafter, to pass a fresh order.

8. The petitioner shall obtain a certified copy of this order and place the same before the learned trial court and on receipt of the same, the learned trial

court shall proceed to hear the matter afresh and thereafter, pass fresh order in accordance with law.

9. In terms of above, this petition stands disposed of.

JUDGE

Comparing Assistant