

GAHC010237962024



2024:GAU-AS:11338

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

Case No. : CRP(IO)/478/2024

MOHIT SETHIYA AND ANR
S/O SRI ASHOK SETHIYA, R/O ARIHANT VILLA, BYE LANE 3A, ABC,
TARUN NAGAR, DISPUR, GUWAHATI-781005, DIST- KAMRUP (M), ASSAM

2: SANDIP KUMAR DUGAR
S/O SRI BINOD KUMAR DUGAR
P/R/O LOAN OFFICE LANE
DHUBRI-783301
DIST- DHUBRI
ASSAM AND P/R/A FLAT NO. 1 B
ACHYUT APARTMENT
NILOMANI PHUKAN PATH
CHRISTIAN BASTI
GUWAHATI-781005
DIST- KAMRUP (M)
ASSA

VERSUS

CHIRANJEEB SARAMA ROY
S/O LATE CHITTA RANJAN SARMA ROY, R/O HOUSE NO. 88, ABC, TARUN
NAGAR, MAIN ROAD, GUWAHATI-781005, DIST- KAMRUP (M), ASSAM

Advocate for the Petitioner : MR. A KABRA,

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 20.11.2024

Heard Mr. A. Kabra, learned counsel for the petitioners.

The present application has been filed under Article 227 of the Constitution of India against the order dated 09.09.2024 passed by the learned Civil Judge(Senior Division) cum Assistant Sessions Judge No. 3, Kamrup(M), Guwahati in Misc.(J) Case No. 114/2023 in T.S. No. 54/2023, whereby the Misc.(J) Case No. 114/2023 was kept in abeyance till the disposal of Misc.(J) Case No. 140/2023 in T.S. No. 54/2023.

It is submitted by the learned counsel for the petitioners that the impugned order dated 09.09.2024 passed by the learned trial court, without giving the petitioners an opportunity of being heard. It is also submitted that the impugned order passed by the learned trial court is not sustainable in law as one Misc. case relates to relief of permanent injunction and in other Misc. case, the cause of action to claim a relief of specific performance and both are independent and one cannot include the other and vice versa. Hence, he has prayed that the impugned order dated 09.09.2024 is liable to be set aside by giving an opportunity to the petitioners of being heard before passing any order. In support of his submission, the learned counsel for the petitioner has placed reliance on a case law- Sucha Singh Sodhi (D) Thr. LRs vs. Baldev Raj Walia & Anr. reported in SCC Civil Appeal No. 3777 of 2018. I have considered the submission of learned counsel for the petitioner.

Considering the submission as well as the documents made available in the record, the impugned order dated 09.09.2024 is hereby set aside. However, the learned trial court is directed to pass any order after hearing both the parties in accordance with law.

In view of the above, the criminal revision petition stands disposed of.

JUDGE

Comparing Assistant