

GAHC010239172022



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

**Case No. : CRP/121/2022**

ASHIM RANJAN MODAK  
S/O- ANIL MUDAK,  
RESIDENT OF ST ROAD,  
P.O. AND P.S.- BADARPUR,  
DISTRICT- HAILAKANDI (ASSAM),  
PIN- 788710.

VERSUS

MD. ABDUL WAHID CHOUDHURY  
SON OF MD. ABDUL HAMID CHOUDHURY,  
RESIDENT OF VILLAGE- DIGIRPAR,  
P.S.- BADARPUR, DISTRICT- KARIMGANJ (ASSAM),  
PIN- 788710.

**Advocate for the Petitioner : MR. S K GHOSH**

**Advocate for the Respondent : MR B SINHA**

**:: BEFORE ::**

**HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

**O R D E R**

28.02.2024

Heard Mr. S.K. Ghosh, learned counsel appearing for the petitioner. Also heard Mr. B. Sinha, learned counsel representing the respondent/caveator.

**2.** This is an application under Article 227 of the Constitution of India

challenging the judgment and order dated 16.09.2022 passed by the learned Civil Judge, Hailakandi in Misc. Appeal No.01/202.

**3.** Both sides are in the midst of a legal battle in Title Suit No.81/2019. The respondent, being the defendant before the trial court filed an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure, which was registered as Misc. Case No.146/2019. After hearing both sides, the trial court refused to grant temporary injunction.

**4.** Thereafter, the said defendant filed an appeal before the learned Civil Judge, Hailakandi, which was registered as Misc. Appeal No.01/2022. The appellate court allowed the appeal and directed the present petitioner/the plaintiff before the trial court, not to change the nature and feather of the suit land and also restrained from alienating the suit land by sale, gift, lease, mortgage etc. The appellate court also restrained the plaintiff from creating charge upon the suit land.

**5.** Mr. Ghosh submits that there is nothing wrong in the directions issued by the appellate court. According to Mr. Ghosh, the trial court issued the said directions on erroneous interpretation of factual scenario as well as the law.

**6.** Mr. Sinha, *per contra*, submits that he has no objection if both sides comply with the directions issued by the learned appellate court.

**7.** I have considered the submissions made by the learned counsels of both sides.

**8.** In a different way the appellate court actually directed both sides to maintain *status quo* in respect of the suit property. I am of the considered opinion that no prejudice has been caused to the present petitioner /the plaintiff before the trial court when the aforesaid directions was passed by the learned appellate court.

**9.** Therefore, this Court is of the opinion that there is nothing wrong in the findings of the learned appellate court.

The present civil revision petition being devoid of any merit, stands dismissed accordingly.

Interim order passed earlier stands vacated.

**JUDGE**

**Comparing Assistant**