

GAHC010242732023



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

Case No. : CRP(IO)/341/2023

BRAJA KR SINGHA AND 2 ORS
S/O- THAMBALANGAU SINGHA,
R/O- DAKSHIN MOHANPUR,
P.O. AND P.S.- SONAI,
IN THE DISTRICT-CACHAR, ASSAM.
PRESENTLY RESIDING AT- SATGAON PUKHURI PAR,
MASJID ROAD, HOUSE NO.1,
P.O. AND P.S.- SATGAON, GUWAHATI-27,
IN THE DISTRICT OF KAMRUP(M), ASSAM.

2: L. ANIL SINGHA
S/O- GOBINDA SINGHA

R/O- VILL- PURBO KITTER BOND PT.-I

P.O.- AMLA
DIST.- HAILAKANDI
ASSAM.
PRESENTLY RESIDING AT HOUSE NO. 31

SHANKAR NAGAR BYE LANE-9
VIP ROAD

GUWAHATI- 781171
P.O.- UDAYAN VIHAR

P.S.- SATGAON
IN THE DISTRICT OF KAMRUP(M)
ASSAM.

3: M. BASANTA SINGHA
S/O- LATE M. ABHIRAM SINGHA

R/O- VILL- CHENGBIL (UMED NAGAR)

P.O.- LALA
DIST.- HAILAKANDI
ASSAM.
REPRESENTED BY HIS ATTORNEY
I.E. THE PETITIONER NO. 1 NAMELY BRAJA KR. SINGHA

APPOINTED VIDE GENERAL POWER OF ATTORNEY UNDER INSTRUMENT
NO. 211577/2023 DATED 25/8/23

VERSUS

KESHAB SARMA AND 2 ORS
S/O- LT. KRISHNALAL SARMA,
R/O- VILL- AMSING JORABAT,
WARD NO. 5,
P.O. AND P.S.- SATGAON, GUWAHATI-27,
DIST- KAMRUP(M), ASSAM.

2:BIPLAB PAUL
SON OF LATE BIRENDER PAUL

R/O- VILL- AMSING JORABAT

WARD NO. 5

P.O. AND P.S.- SATGAON
GUWAHATI-27

DIST- KAMRUP(M)
ASSAM.

3:BHARAT GIRI
SON OF NANDA GIRI

RESIDENT OF - VILL- AMSING JORABAT

POST OFFICE- SATGAON

POLICE STATION- SATGAON

GUWAHATI- 781027

DIST.- KAMRUP(M)
ASSAM

Advocate for the Petitioner : MR. N N JHA

Advocate for the Respondent : MR B K SARMA (R1)

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

27.03.2024

This is an application under Article 227 of the Constitution challenging the non-granting of an ad-interim ex-parte temporary injunction by the Court of the learned Additional District Judge No.1, Kamrup(M) at Guwahati in Misc.(J) Case No.120/2023 arising out of Misc. Appeal No.25/2023.

2. From the records, it reveals that a suit was filed by the petitioners herein along with an injunction application restraining the defendants, his men, agents, workmen and associates from raising further construction over the suit land in any manner and also from changing the nature and character of the suit land in any manner as well as restraining the defendant Nos.1 and 2 their men, agents, workmen and associates from selling and alienating the suit land in any manner. The said injunction application was registered and numbered as Misc.(J) Case No.919/2023. The Court of the learned Civil Judge (Senior Division) No.2 Kamrup(M) at Guwahati by the order dated 14.09.2023 issued notice and did not grant an ad-interim ex-parte injunction.

3. Being aggrieved, an appeal was preferred being Misc. Appeal No.25/2023 before the Court of the learned District Judge, Kamrup(M) at Guwahati which

was subsequently endorsed to the file of the learned Additional District Judge No.1, Kamrup(M) at Guwahati for disposal. In the said appeal, an injunction application was filed being Misc.(J) Case No.120/2023, whereby an injunction was sought for similar to the injunction as sought for in Misc.(J) Case No.919/2023. The learned 1st Appellate Court vide an order dated 29.09.2023 admitted the appeal and called for the records. The learned 1st Appellate Court further in the said injunction application being Misc.(J) Case No.120/2023 only issued notice and did not grant the ad-interim ex-parte injunction as sought for.

4. Being aggrieved, the instant proceeding has been filed by the petitioner before this Court. This Court vide a detailed order dated 19.10.2023 was pleased to grant an interim injunction restraining the opposite parties/respondents herein from proceeding with the further construction of the proposed boundary wall, or otherwise changing the nature and character of the suit land, more specifically described in this application as well as the schedule appended to the plaint. The said order has been extended by this Court from time to time.

5. This Court had duly enquired from the learned counsel appearing on behalf of both the parties as to what is the stage of the Misc. Appeal pending before the learned 1st Appellate Court. It has been duly informed that the said Misc. Appeal is at the stage of filing objection by the respondents herein.

6. Taking into account that there is an appeal proceedings which is presently ongoing along with an injunction proceeding pending before the learned 1st

Appellate Court, in the opinion of this Court, a further parallel proceeding being continued before this Court would not be in the interest of justice. Accordingly, this Court taking into account the order passed by this Court on 19.10.2023 and the same being presently continued from time to time is of the opinion that if the said order dated 19.10.2023 is continued till disposal of the Appeal, the same would meet the ends of justice. Accordingly, this Court restrains the respondents herein from proceeding with the further construction of the proposed boundary wall or otherwise changing the nature and character of the suit land, more specifically, described in the schedule appended to the plaint till the disposal of the appeal being Misc.Appeal No.25/2023.

7. It is made clear that the learned 1st Appellate Court shall decide the said appeal being Misc. Appeal No.25/2023 on its own merit, without being influenced by the present order as well as the order dated 19.10.2023 passed by this Court. Further to that, taking into account that the said Misc.Appeal proceeding arises out of an order not granting an ex-parte order of injunction, the learned 1st Appellate Court is requested to dispose of the said Misc. Appeal proceedings within a period of three months from the date of the instant order being placed before the learned 1st Appellate Court.

8. With the above, the instant revision petition stands disposed of.

JUDGE

Comparing Assistant