

GAHC010295712023



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

Case No. : FAO/4/2024

THE ALL INDIA TEA AND TRADING COMPANY LIMITED
A COMPANY WITHIN THE MEANING OF THE COMPANIES ACT, 2013
HAVING ITS OFFICE AT BALLACHERRA TEA ESTATE, BARKOLA SILCHAR,
CACHAR, ASSAM- 788110 AND ALSO AT 3, PRINCEP STREET, 1ST FLOOR,
KOLKATA- 700072 REP. BY ITS DIRECTOR, SRI JOSE MUKKATHU, AGE 60
YESRS, S/O SRI VARGHESE BABY MUKKATHU, R/O 185/9 BECHARAM
CHATTERJEE ROAD, KOLKATA, WEST BENGAL.

VERSUS

THE LOOBAAH COMPANY LIMITED AND 8 ORS.
A COMPANY WITHIN THE MEANING OF THE COMPANIES ACT, 2013,
HAVING ITS OFFICE AT KALLIANCHERRA TEA ESTATE, KALLINCHERRA,
KALAIN P.O. CACHAR ASSAM- 788815 AND ALSO ALSO AT SUITE NOS. 401
AND 402, 1, BRISTISH INDIA STREET, KOLKATA- 700069, REP. BY ITS
DIRECTOR, SARIKA SETHIYA, W/O SRI AJAY PUGALIA, OF SUITE NOS. 401
AND 402, 1, BRITISH INDIA STREET, KOLKATA- 700069.

2:PRITI PUGALIA
OF SUITE NOS. 401 AND 402
1
BRITISH INDIA STREET
KOLKATA- 700069.

3:AJAY PUGALIA
OF SUITE NOS. 401 AND 402
1
BRITISH INDIA STREET
KOLKATA- 700069.

4:RAJNI PUGALIA
OF SUITE NOS. 401 AND 402

1
BRITISH INDIA STREET
KOLKATA- 700069.

5:RAJSHREE PUGALIA
OF SUITE NOS. 401 AND 402

1
BRITISH INDIA STREET
KOLKATA- 700069.

6:SANJEEV PUGALIA
OF SUITE NOS. 401 AND 402

1
BRITISH INDIA STREET
KOLKATA- 700069.

7:SARIKA SETHIYA
OF SUITE NOS. 401 AND 402

1
BRITISH INDIA STREET
KOLKATA- 700069.

8:VINAY PUGALIA
OF SUITE NOS. 401 AND 402 1
BRITISH INDIA STREET KOLKATA- 700069.

9:RAJBAHDUR KHANDELWAL
OF SUITE NOS. 401 AND 402

1
BRITISH INDIA STREET
KOLKATA- 700069

For the appellant (s) : Mr. K. N. Choudhury, Sr. Advocate

Mr. T. Deuri, Advocate

For the respondent (s) : Mr. H. K. Sarma, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

06.05.2024

Heard Mr. K. N. Choudhury, the learned senior counsel assisted by Mr. T. Deuri, the learned counsel for the appellant and Mr. H. K. Sarma, the learned counsel appearing on behalf of the respondents.

2. This is an application filed under Order XLIII Rule 1(r) of the Code of Civil Procedure, 1908 challenging the order dated 20.12.2023 in Misc. (J) Case No.325/2023 arising out of Title Suit No.229/2023 only on the limited grievance that the learned Trial Court did not grant the ad-interim ex-parte injunction pending issuance of a notice.

3. This Court has duly taken note of that in the said proceedings, the learned Trial Court had fixed the matter on 11.03.2024 and the instant Appeal was filed on 28.12.2023 and vide an order dated 10.01.2024, this Court had admitted the Appeal and also passed an order that till the returnable date, both sides shall maintain status-quo in respect to Kallaincherra Tea Estate in the district of Cachar, Silchar.

4. It has also been brought to the attention of this Court that the defendants in the said suit had duly appeared. However, the written objection is yet to be filed. It has also been brought to the attention of this Court that the next date is fixed on 27.05.2024.

5. This Court is of the opinion that when the respondents have appeared as defendants in the suit, the continuation of a parallel injunction proceedings out here in this Court would not be in the interest of justice.

6. Accordingly, this Court disposes of the instant Appeal by directing the learned Trial Court to decide the said injunction application as expeditiously as possible.

7. This Court also takes note of that the instant Appeal has been filed, but there is no application filed for granting an injunction which is otherwise required for this Appellate Court to pass an order of injunction.

8. Taking into account that this Court has again remitted the case back to the learned Trial Court to decide the injunction application expeditiously, this

Court finds it proper that to continue the order of 10.01.2024 till 13.05.2024 on which date, the appellant herein would be at liberty to file an application seeking ad-interim protection till the next date, i.e. 27.05.2024. The learned Trial Court shall consider the said application and pass such order as deemed fit without being influenced by the order passed herein.

9. As the parties are duly represented before this Court, the parties are directed to appear before the learned Trial Court on 13.05.2024. Thereupon, the learned Trial Court shall take due notice of the observation made herein above and dispose of the injunction application.

JUDGE

Comparing Assistant