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

Case No. : CRP(IO)/147/2025

CHITTA RANJAN DEY AND 3 ORS.
S/O LATE MADHAV CHANDRA DEY, RESIDENT OF VILLAGE- KALINAGAR PART-III, P.S- PANCHGRAM, DISTRICT- HAILAKANDI, ASSAM, PIN-788801

2: NIRANJAN DEY
S/O LATE MADHAV CHANDRA DEY
RESIDENT OF VILLAGE- KALINAGAR PART-III
P.S- PANCHGRAM
DISTRICT- HAILAKANDI
ASSAM
PIN-788801

3: NIRMAL DEY
S/O LATE MADHAV CHANDRA DEY
RESIDENT OF VILLAGE- KALINAGAR PART-III
P.S- PANCHGRAM
DISTRICT- HAILAKANDI
ASSAM
PIN-788801

4: SMT. LAKSHMI RANI DEY
D/O LATE MADHAV CHANDRA DEY
RESIDENT OF VILLAGE- KALINAGAR PART-III
P.S- PANCHGRAM
DISTRICT- HAILAKANDI
ASSAM
PIN-78880

VERSUS

NILMONI NANDI AND 3 ORS.
S/O LATE NITAI NANDI, RESIDENT OF VILLAGE- KALINAGAR PART-III, P.S- PANCHGRAM, DISTRICT- HAILAKANDI, ASSAM, PIN-788801

2:GONESH NANDI
S/O LATE NITAI NANDI
RESIDENT OF VILLAGE- KALINAGAR PART-III
P.S- PANCHGRAM
DISTRICT- HAILAKANDI
ASSAM
PIN-788801

3:BASHUDEV NANDI
S/O LATE NITAI NANDI
RESIDENT OF VILLAGE- KALINAGAR PART-III
P.S- PANCHGRAM
DISTRICT- HAILAKANDI
ASSAM
PIN-788801

4:KRISHNA NANDI
S/O LATE NITAI NANDI
RESIDENT OF VILLAGE- KALINAGAR PART-III
P.S- PANCHGRAM
DISTRICT- HAILAKANDI
ASSAM
PIN-788801

5:GOURANGA NANDI
S/O LATE NITAI NANDI
RESIDENT OF VILLAGE- KALINAGAR PART-III
P.S- PANCHGRAM
DISTRICT- HAILAKANDI
ASSAM
PIN-78880

Advocate for the Petitioner : MR. S K GHOSH, MS F AHMED

Advocate for the Respondent : MR. D CHAKRABARTY (R-1 TO 5), MS D.CHAKRABARTY(R-1 TO 5)

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

16.11.2026

Heard Shri S.K. Ghosh, learned counsel for the petitioners. Also heard Shri D. Chakrabarty, learned counsel for the respondents.

2. The instant petition under Article 227 of the Constitution of India r/w Section 115 and 151 CPC has been filed challenging an order dated 04.01.2025 passed by the learned Civil Judge (Sr. Division) Hailakandi in Misc (J) Case No. 117/2022 arising out of Title Execution Case No. 15/2006. By the said order, an application filed under Section 47 r/w Section 151 of the CPC has been rejected.

3. It appears that the petitioners are the respondents in T.S. No. 09/1999, which was instituted by the present respondents as plaintiffs for declaration of right, title and interest and for khas possession of the scheduled land. The said Title Suit was partly decreed in favour of the plaintiffs / respondents vide judgment and decree dated 26.08.2004. The said judgment and decree was put to challenge by the present petitioners by instituting Title Appeal No. 53/2006 which was also dismissed on 19.05.2008. Thereafter, RSA Case No. 114/2008 was preferred in this Court which was also dismissed by this Court vide judgment and order dated 14.05.2019. In the meantime, the respondents herein had filed Title Execution Case No. 15/2006. In the said case, the present application under Section 47 of the CPC was filed.

4. Shri Ghosh, the learned counsel for the petitioners has submitted that the decree in question was not executable. He has contended that the primary ground is that the respondents have lost their proprietorship over the schedule land and this aspect was not considered by the learned Trial Court in the aforesaid execution case. By criticising the order dated 04.01.2025 passed by the learned Trial Court, the learned counsel for the petitioners has submitted that the scope and ambit of Section 47 of the CPC was not appreciated by the learned Trial Court and therefore, the present application deserves to be allowed by remanding back the matter for proper adjudication.

5. *Per contra*, Shri Chakraborty, the learned counsel for the respondents has

submitted that the application under Section 47 of the CPC itself was not filed *bona fide* inasmuch as the Title Execution was instituted in the year 2006 and instead of filing application under Section 47 of the CPC, the respondents had questioned the legality and validity of the judgment and decree by filing first appeal followed by regular second appeal and both are dismissed. He has submitted that the RSA was dismissed by this Court on 14.05.2019 and admittedly, the application under Section 47 of the CPC was of 2022. Shri Chakraborty, the learned counsel has also submitted that in the meantime, a third party had filed an application under Order 21 Rule 97, 99 and as per instructions received, the said application has also been dismissed. The appeal filed against the said dismissal has also been rejected and presently, the party has filed a revision before this Court. However, there is no interim order.

6. He has submitted that the approach of the petitioners in belatedly filing application under Section 47 demonstrate the lack of *bona fide* and the present petition also demonstrate that the petitioners are trying to somehow obstruct the execution of a lawful judgment and decree.

7. The rival submissions have been duly considered.

8. A bare perusal of the impugned order dated 04.01.2025 passed by the learned Civil Judge (Sr. Division), Hailakandi would show that the application was duly considered and the learned Court had taken the pain to elaborately discuss all the submissions and the provisions of law.

9. In the considered opinion of this Court, the conclusion arrived at by the learned Court cannot, by stretch be contended to have been passed in excess of jurisdiction.

10. The contour of exercising revisional jurisdiction is mainly to oversee the

competency and jurisdiction of the Court which has passed the impugned order. In other words, the examination would be primarily on the aspect as to whether the Court had exercised jurisdiction not vested by law or have failed to exercise jurisdiction so vested. The third factor is with regard to exercise of jurisdiction illegally or with material irregularity. With regard to the third factor, the same has to be examined by keeping in mind as to whether the learned Court had taken into consideration the relevant factors to come to the conclusion or as to whether irrelevant and extraneous factors were taken into consideration.

11. In the opinion of this Court, the conclusion arrived at appears to have been done by taking the relevant factors into consideration and the same does not appear to be an unreasonable exercise of jurisdiction.

12. In view of the aforesaid discussions, this Court is of the opinion that not case for interference is made out.

13. Accordingly, the petition stand dismissed.

14. It is however needless to state that the executing Court would confine its orders only to the subject matter of the decree.

JUDGE

Comparing Assistant