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2026:GAU-AS:17053

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

Case No. : CRP(IO)/247/2026

ZAKIR HUSSAIN MOLLAH AND ANR
S/O MOKBUL HUSSAIN MOLLAH, A R/O VILL- SALMARA PART-II, P.O.- SALMARA, P.S.- DHUBRI, DIST- DHUBRI, ASSAM

2: AHAD ALI SHEIKH
S/O LT. FAJOR ALI SHEIKH
A R/O VILL- FALIMARI PART-II
P.O.- FALIMARI
P.S.- GAURIPUR
DIST- DHUBRI
ASSAM
PIN- 78332

VERSUS

MAHASIN MONDAL @ MAHASIN HUSSAIN MONDAL AND 8 ORS
S/O LATE SAHJAHAN ALI, A R/O VILL- FALIMARI PART-II, P.O.- FALIMARAI, P.S.- GAURIPUR, DIST- DHUBRI, ASSAM, PIN- 783325

2:MOOKTER MONDOL @ MOKTER HUSSAIN MONDOL
S/O LATE SAHJAHAN ALI
A R/O VILL- FALIMARI PART-II
P.O.- FALIMARAI
P.S.- GAURIPUR
DIST- DHUBRI
ASSAM
PIN- 783325

3:MOFAJEL MONDOL @ MOFAJEL HUSSAIN MONDOL
S/O LATE SAHJAHAN ALI
A R/O VILL- FALIMARI PART-II
P.O.- FALIMARAI
P.S.- GAURIPUR
DIST- DHUBRI

ASSAM
PIN- 783325

4:ROUSHAN ALI MONDOL
S/O LT. SAHJAHAN ALI MONDOL
A R/O VILL- JHAGRARPAR PART-III
P.O.- JHAGRARPAR
P.S.- DHUBRI
DIST- DHUBRI
ASSAM
PIN- 783325

5:ABDUL RASHID MANDAL
S/O LT. SAHJAHAN ALI MONDOL
A R/O VILL- JHAGRARPAR PART-III
P.O.- JHAGRARPAR
P.S.- DHUBRI
DIST- DHUBRI
ASSAM
PIN- 783325

6:THE STATE OF ASSAM
TO BE REPRESENTED BY THE DISTRICT COLLECTOR
P.O. AND P.S.- DHUBRI
DIST- DHUBRI
ASSAM

7:THE DISTRICT REGISTRAR
DHUBRI
P.O. AND P.S.- DHUBRI
DIST- DHUBRI
ASSAM
PIN- 783301

8:THE A.S.O./ CIRCLE OFFICER
DHUBRI REVENUE CIRCLE
P.O. AND P.S.- DHUBRI
DIST- DHUBRI
ASSAM
PIN- 783301

9:THE SETTLEMENT OFFICER
DHUBRI AND KOKRAJHAR
P.O. AND P.S.- DHUBRI
DIST- DHUBRI
ASSAM
PIN- 78330

Advocate for the Petitioner : MR. M A I HUSSAIN, MR. R DUBEY,MR. S. ALOM,MR. NOOR KUTUB ALAM

Advocate for the Respondent : GA, ASSAM, MS. S LASKAR(R1,2,3),MS. R YASMIN(R1,2,3),MR N Z CHOUDHURY(R1,2,3),MR. A R BHUYAN(R1,2,3)

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

19.11.2026

Heard Mr. R. Dubey, the learned counsel appearing for the petitioners. Also heard Mr. A.R. Bhuyan, the learned senior counsel as well as Mr. T.R. Gogoi, the learned G.A. representing the respondents.

2. This is an application under Article 227 of the Constitution of India challenging the order dated 16.03.2026 passed by the learned Civil Judge (Sr. Divn.), Dhubri in Misc.(J) Case No.44/2025 arising out of T.S. No.10/2025.

3. Md. Mahasin Mondal, Mooktar Mondal and Mofajel Mondal, being some of the respondents herein, had filed T.S. 10/2025 against Jakir Hussain Mollah and Ahad Ali Sheikh, being some of the defendants in the said suit.

4. Md. Mahasin Mondal, Mooktar Mondal and Mofajel Mondal are the sons of late Sahjahan Ali Mondal. Late Sahjahan Ali Mondal and his son Md. Mahasin Mondal had purchased 5 Bighas of land. In fact, late Sahjahan Ali Mondal had purchased 3 Bighas of land and Md. Mahasin Mondal had purchased 2 Bighas of land. Their names were mutated in the land records.

5. While late Sahjahan Ali Mondal was alive, he had orally gifted his 3 Bighas of

land to his two sons, namely- Mooktar Mondal and Mofajel Mondal. Possession was delivered to them. They mutated their names in respected of the said land in the land records.

6. Late Sahjahan Ali had two other sons, namely- Roshan Ali Mondal and Abdul Rashid Mondal. They claimed shares in the aforesaid 3 Bighas of lands.

7. In the meantime, Roshan Ali Mondal had relinquished his claim by executing a relinquishment deed on 28.03.2014.

8. Abdul Rashid Mondal also relinquished his claim on 28.05.2018 by swearing an affidavit.

9. In spite of that, Roshan Ali Modal and Abdul Rashid Mondal had got their names mutated in the land records in respect of the said 3 Bighas of land.

10. They even got a separate patta in respect of 2 Bighas of the aforesaid 3 Bighas of land. Therefore, Md. Mahasin Mondal, Mooktar Mondal and Mofajel Mondal had filed the suit being T.S. 206/2021 against Roshan Ali Mondal and Abdul Rashid Mondal praying for declaration of their right, title and interest over the said 3 Bighas of land. The three brothers claimed that the aforesaid two other brothers did not have any right, title and interest over their claimed 2 Bighas of land out of the total 3 Bighas of lands.

11. Md. Mahasin Mondal, Mooktar Mondal and Mofajel Mondal had also filed a petition under Order 39 Rule 1 and 2 of the Code of Civil Procedure registered as Misc. (J) Case No.146/2021 restraining Roshan Ali Mondal and Abdul Rashid Mondal from dispossessing them from the land.

12. Md. Mahasin Mondal, Mooktar Mondal and Mofajel Mondal came to know that Roshan Ali Mondal and Abdul Rashid Mondal were trying to sell the aforesaid 2 Bighas of land where they got their names mutated and the land was ultimately sold to Babul Hussain, Ahad Ali Sheikh and Jakir Hussain Mollah.

13. With the aforesaid pleadings, Md. Mahasin Mondal, Mooktar Mondal and Mofajel Mondal had prayed before the trial court that they have right, title and interest over the said 3 Bighas of land as well as over the other 2 Bighas of land. They also prayed for cancellation of the aforesaid sale deed.

14. Claiming both the suits to be between the same parties and on the same issue, Jakir Hussain Mollah and Ahad Ali Sheikh have prayed before the court below to stay, under Section 10 of the Code of Civil Procedure, the further proceedings of T.S. 10/2025.

15. The petition under Section 10 of the CPC was registered as Misc. (J) Case No.44/2025. The learned trial court ultimately held that the matter in issue involved in T.S. 10/2025 is not directly and substantially in issue in T.S No.206/2021 and therefore, rejected the prayer of the petitioners.

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

17. At the beginning this Court has decided to remind itself that the petitioners have prayed for exercising the supervisory powers of this Court under Article 227 of the Constitution of India. For the present petition, this is not an appellate authority to weigh the merit of the cases of both sides.

18. The main grounds on which the High Court interferes under Article 227 of the Constitution of India are-------

1. When the inferior Courts act arbitrarily

2. When the inferior Courts act in excess of the Jurisdiction vested in them.

3. When the inferior Courts fail to exercise jurisdiction vested in them.

19. It is pertinent to note that the High Court does not interfere for correcting mere error of facts or, with a finding of the subordinate court which is within the jurisdiction

of such court. However, if, such finding is perverse in such a sense that no prudent person having the knowledge of law could have arrived at such finding, or the finding is not based on any material evidence or, such finding results in manifest injustice or if there is a misdirection in law then the High Court can interfere under Article 227 of the Constitution of India.

20. In the case in hand, the trial court has not acted arbitrary or exceeded its jurisdiction in passing the impugned order. The trial court has rightly exercised its jurisdiction vested in it.

21. Under the aforesaid circumstances, this Court is of the opinion that this is not a fit case for exercise the power under Article 227 of the Constitution of India. I find the petition is devoid of merit and dismissed accordingly.

JUDGE

Comparing Assistant