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

Case No. : CRP(IO)/398/2026

THE ASSAM SAHITYA SABHA AND 8 ORS.
REGISTERED UNDER THE SOCIETIES REGISTRATION ACT, 1860, HAVING ITS REGISTERED HEAD OFFICE AT CHANDRA KANTA HANDIQUE BHAVAN, MITHAPUKHURI ROAD, ATILAGAON, JORHAT- 785001, DISTRICT- JORHAT, ASSAM AND HAVING ITS ADMINISTRATIVE OFFICE AT BHAGAWATI PRASAD BARUAH BHAVAN, AMBARI, GUWAHATI- 781001, DIST- KAMRUP (M), ASSAM, REPRESENTED BY ITS CHIEF SECRETARY

2: THE PRESIDENT OF ASSAM SAHITYA SABHA
HAVING ITS REGISTERED HEAD OFFICE AT CHANDRA KANTA HANDIQUE BHAVAN
MITHA PUKHURI ROAD
ATILA GAON
JORHAT- 785001
DISTRICT- JORHAT
ASSAM AND HAVING ITS ADMINISTRATIVE OFFICE AT BHAGAWATI PRASAD BARUAH BHAVAN
AMBARI
GUWAHATI- 781001
DISTRICT- KAMRUP (M)
ASSAM

3: THE CHIEF SECRETARY OF ASSAM SAHITYA SABHA
HAVING ITS REGISTERED HEAD OFFICE AT CHANDRA KANTA HANDIQUE BHAVAN
MITHA PUKHURI ROAD
ATILA GAON
JORHAT- 785001
DISTRICT- JORHAT
ASSAM AND HAVING ITS ADMINISTRATIVE OFFICE AT BHAGAWATI PRASAD BARUAH BHAVAN
AMBARI
GUWAHATI- 781001
DISTRICT- KAMRUP (M)

ASSAM

4: GOLAGHAT ZILA SAHITYA SABHA
GOLAGHAT
ASSAM
REPRESENTED BY ITS SECRETARY
DULAL CHANDRA DAS.

5: THE PRESIDENT OF GOLAGHAT ZILA SAHITYA SABHA
R/O BORPATHAR TOWN
WARD NO. 5
DISTRICT- GOLAGHAT
PIN- 785602.

6: THE SECRETARY OF GOLAGHAT ZILA SAHITYA SABHA
DULAL CHANDRA DAS
R/O DAYANG SENIOR SECONDARY SCHOOL
MERAPANI
DISTRICT- GOLAGHAT
P.O.- MERAPANI
PIN- 785705.

7: ADORONI SAMITI
5TH EXECUTIVE OF ASSAM SAHITYA SABHA
FOR THE SESSION 2025-27 AND PRATINIDHI SABHA OF THE LAST PANCHARATNA GUWAHATI ADHIBEXON
ADDRESS- BIRANGANA SATISADHANI KALAKHETRA
GOLAGHAT - 785602
REPRESENTED BY ITS SECRETARY.

8: DR. DEBAJIT PHUKAN
PRESIDENT OF ADORONI SAMITI
5TH EXECUTIVE OF ASSAM SAHITYA SABHA FOR THE SESSION 2025-27 AND PRATINIDHI SABHA OF THE LAST PANCHARATNA GUWAHATI ADHIBEXON
ADDRESS- GOLAGHAT TOWN.

9: DULAL CH. DAS
GENERAL SECRETARY OF ADORONI SAMITI
5TH EXECUTIVE OF ASSAM SAHITYA SABHA FOR THE SESSION 2025-27 AND PRATINIDHI SABHA OF THE LAST PANCHARATNA GUWAHATI ADHIBEXON
R/O DAYANG SENIOR SECONDARY SCHOOL
MERAPANI
DISTRICT - GOLAGHAT
P.O.- MERAPANI
PIN- 78570

VERSUS

ANANTA RAM MEDHI
S/O LATE AMRIT CH. MEDHI, R/O TARALI PATH, HOUSE NO.- 23, J.P. AGARWALA ROAD, PANJABARI, GUWAHATI, PIN- 781037, DISTRICT- KAMRUP (M), ASSAM

Advocate for the Petitioner : Mr. S. P. Roy, Advocate

Advocate for the Respondent : Mr.A.R. Medhi, Respondent-in-person

Date of Hearing : **28.08.2026**
Date of Judgment : **03.11.2026**

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

[1] Heard Mr. S. P. Roy, the learned counsel for the petitioners. Also heard Mr. A.R. Medhi, the respondent appearing in person.

[2] This CRP(I/O) has been registered on filing of an application under Article 227 of the Constitution of India by the petitioners, impugning the order dated 25.05.2026 passed by the Court of learned Civil Judge (Senior Division), Kamrup (Metro), Guwahati in Title Suit No. 328/2026. The petitioners have also impugned the order dated 05.06.2026 passed in the aforesaid suit by the Trial Court, whereby it rejected the petitions bearing Nos. 3370/26, 3371/26, and 3373/26 filed under Order VII Rule 11 read with Section 9 and Section 151 of the Code of Civil Procedure, 1908, praying for rejection of the plaint filed in Title Suit No. 328/2026.

[3] The petitioners have also impugned the order dated 06.06.2026

passed in Misc.(J) Case No. 599/2026 arising out of Title Suit No. 328/2026 passed by the Court of learned Civil Judge (Senior Division) No. 1, Kamrup (Metro), whereby it restrained the present petitioners from holding the *Pratinidhi Sabha* on 07.06.2026 at Birangana Sati Sadhani Kalakshetra, Golaghat, till disposal of Title Suit No. 328/2026.

[4] The facts relevant for consideration of the instant CRP(I/O), in brief, are that the present respondent, namely Shri Ananta Ram Medhi, claiming himself to be a life member of the Assam Sahitya Sabha,as plaintiff, had filed a title suit bearing T.S. No. 328/2026 before the Court of learned Civil Judge (Senior Division) No. 1, Kamrup (Metro) at Guwahati, praying for declaratory reliefs to the effect that the proposed *Pratinidhi Sabha* of the petitioners' organization, namely, the Assam Sahitya Sabha, which was scheduled to be held on 07.06.2026, is illegal and unlawful, as well as some other declaratory relief and permanent injunction restraining the present petitioners from holding the said *Pratinidhi Sabha* on 07.06.2026.

[5] Along with the aforesaid title suit, the present respondent also filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, seeking temporary injunction against the present petitioners from holding the aforementioned *Pratinidhi Sabha* during the pendency of Title Suit No. 328/2026. The said application was registered as Misc.(J) Case No. 599/2026.

[6] In Title Suit No. 328/2026, by its order dated 25.05.2026, the Trial Court issued summons to the present petitioners, who are the defendants in the said suit, and fixed the suit on 03.06.2026 for service report and for filing of the written statement. Similarly, in Misc.(J) Case

No. 599/2026, also by its order dated 25.05.2026, the Trial Court issued notice to the opposite parties and fixed the next date on 03.06.2026.

[7] On 03.06.2026, the petitioners, namely, the Assam Sahitya Sabha, Shri Debojit Bora, and Dr. Basanta Kumar Goswami filed an application under Order XIV Rule 2(1) of the Code of Civil Procedure, 1908 before the Trial Court, raising the question of maintainability of the aforementioned suit and praying for framing of preliminary issues in the said suit.

[8] On the same day, the defendant No. 2, namely, Shri Debojit Bora, and the defendant No. 3, namely, Shri Basanta Kumar Goswami, also filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, praying for rejection of the plaint in Title Suit No. 328/2026, raising the question of maintainability of the suit as well as raising the plea of limitation as well as jurisdictional bar. The application under Order VII Rule 11 of the Code of Civil Procedure, 1908 filed by defendant No. 2 and defendant No. 3 was registered as Petition No. 3373/2026.

[9] Similar application under Order VII Rule 11 of the Code of Civil Procedure was also filed by defendant No. 4, defendant No. 5, and defendant No. 6; the said application was registered as Petition No. 3374/2026. The other defendants, namely, defendant Nos. 7, 8, and 9, also filed a similar petition, which was registered as Petition No. 3375/26.

[10] The defendants also raised the plea before the Trial Court that the plaintiff, being an advocate, cannot appear in person in the suit without written permission from the Court under Section 32 of the Advocates Act, 1961. However, the Trial Court allowed the present respondent to plead

before it as plaintiff in person and, by the order dated 05.06.2026 passed in Title Suit No. 328/2026, it rejected the petitions bearing Nos. 3370/2026, 3371/2026, and 3373/2026 filed by the defendants under Order VII Rule 11 read with Section 9 of the Code of Civil Procedure, 1908.

[11] The Trial Court, by its order dated 06.06.2026 passed in Misc.(J) Case No. 599/2026, also granted temporary injunction in favour of the respondent after hearing both sides and restrained the present petitioners from holding the *Pratinidhi Sabha* of the Asam Sahitya Sabha on 07.06.2026 at *Birangana Sati Sadhani Kalakshetra*, Golaghat, till the disposal of Title Suit No. 328/2026.

[12] Mr. S.P. Roy, the learned counsel for the petitioners, has submitted that the Trial Court has erred in passing the order dated 25.05.2026 in Title Suit No. 328/2026 by issuing summons to the defendants without taking into consideration the fact that Title Suit No. 328/2026 has been filed by the present respondent in a representative capacity, and no leave for filing the said suit was obtained by the respondent before filing the said suit under Order I Rule 8 of the Code of Civil Procedure, 1908.

[13] He submits that in paragraph No. 17 of the plaint filed by the present respondent in Title Suit No. 328/2026, he has categorically pleaded that:

"However, notwithstanding that letter, the President and Secretary of Assam Sahitya Sabha have illegally persisted in their attempt to amend the Constitution with ulterior motives, which is deeply unfortunate to the people of Assam and the members of Assam Sahitya Sabha."

The learned counsel for the petitioners submits that the pleading in paragraph No. 17 of the plaint indicates that the respondent had filed the suit for the people of Assam and the members of Asam Sahitya Sabha in a representative capacity.

[14] He further submits that in paragraph No. 19 of the plaint, the respondent has also pleaded as follows:

"If the defendants are not restrained by granting of a permanent injunction, the plaintiff as well as the people of Assam and members of Assam Sahitya Sabha will suffer irreparable loss and injury, and the glorious reputation of Assam Sahitya Sabha as a prominent cultural and literary organisation of the State will be irreversibly damaged."

He submits that the said averment in paragraph No. 19 of the plaint also indicates that the aforesaid suit has been filed by the present respondent in a representative capacity. He submits that the Trial Court erred in failing to ascertain the representative nature of the suit and the fact that the plaintiff has not complied with the mandatory procedural requirement of seeking leave of the Court under Order I Rule 8 of the Code of Civil Procedure, 1908, before filing a representative suit.

[15] The learned counsel for the petitioners further submits that the Trial Court also failed to take into consideration that various organisations like *Dimoria Anchalik Puberun Swarna Shakha* of Assam Sahitya Sabha, *Guwahati Ukil Samaj Swarna Shakha,* Kamrup Zila Sahitya Sabha, and individuals like Ashwini Kumar Talukdar and Biplob Talukdar have also filed applications under Order I Rule 8A of the Code of Civil Procedure, 1908 for impleading them as parties in Title Suit No. 328/2026, which itself indicate

to the representative nature of the suit filed by the present respondent.

[16] He submits that there is flagrant violation of the statutory provisions contained in Order I Rule 8 of the Code of Civil Procedure, 1908, by the Trial Court as well as by the respondent, and as such, this is a fit case where the impugned orders passed by the Trial Court may be quashed and reversed by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

[17] The learned counsel for the petitioners further submits that since Title Suit No. 328/2026 is itself not maintainable for want of compliance with statutory provisions contained in Order I Rule 8 of the Code of Civil Procedure, 1908, as such no relief may be granted in the Misc. Case arising out of the said Title Suit, and as such, the temporary injunction granted against the present petitioners by order dated 06.06.2026 passed in Misc.(J) Case No. 599/2026 is also liable to be set aside and quashed.

[18] In support of his submissions, the learned counsel for the petitioners has cited the following rulings:

a) *Radhey Shyam and Another v. Chhabi Nath and Others*, reported in (2015) 5 SCC 423 ;

b) *Khargeswar Choudhury and Another v. Isfaq Hussain and Others*, reported in (2001) 1 GLT 692;

c) *Sangeeta Sinha v. Bhawna Bhardwaj and Others*, reported in 2025 AIR (SC) 1806;

d) *Asma Latif and Another v. Shabbir Ahmad and Others*, reported in (2024) 4 SCC 696 ;

e) *Abdul Qadir Mohammad Helal Ali v. Sri Maneshwar Brahma*, reported in 2026 Supreme (Gau) 1209 ;

f) *Ram Chander Sunda v. Union of India*, reported in 1999 Supreme (SC) 14 ;

[19] On the other hand, Mr. A.R. Medhi, the respondent appearing in person, has submitted that there is no infirmity in the orders passed by the Trial Court which have been impugned by the petitioners in this CRP(I/O). He submits that he is a life member of Assam Sahitya Sabha, and in his capacity as a life member of Assam Sahitya Sabha, he has filed Title Suit No. 328/2026 as he is aggrieved by the illegal action of the petitioners in taking decisions against the provisions contained in the Constitution of Assam Sahitya Sabha in deciding to hold the *Pratinidhi Sabha* on 07.06.2026 at Golaghat.

[20] He submits that since the said decision is illegal and contrary to the provisions contained in the Constitution of the Assam Sahitya Sabha, naturally the members of Assam Sahitya Sabha as well as the people of Assam would be aggrieved by such wrong decision. However, he submits that the respondent (the plaintiff), being himself a life member of Asam Sahitya Sabha, has filed the Title Suit No. 328/2026 in his individual capacity as a life member of Asam Sahitya Sabha and not in a representative capacity. As such, the question of taking leave under Order I Rule 8 of the Code of Civil Procedure, 1908, does not arise.

[21] The respondent appearing in person has further submitted that the Trial Court has rightly allowed him to plead his own case before it and that the bar contained in Section 32 of the Advocates Act, 1961 is not

applicable to his case.

[22] The respondent in person further submits that the order dated 06.06.2026 passed in Misc.(J) Case No. 599/2026, whereby temporary injunction has been granted in favour of the present respondent, was passed by the Trial Court under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908. He submits that the said order being an appealable order under Order XLIII Rule 1(r) of the Code of Civil Procedure, 1908, the application under Article 227 of the Constitution of India impugning such an injunction order is not maintainable.

[23] The respondent appearing in person has further submitted that the Trial Court has rightly dismissed the petitions filed by the present petitioners under Order VII Rule 11 of the Code of Civil Procedure, 1908 praying for rejection of the plaint, as no ground for such rejection could be made out by the present petitioners. He submits that the Trial Court has rightly held that the Constitution of Asam Sahitya Sabha, which is a registered society under the Societies Registration Act, 1860, cannot override the statutory provisions contained in the Code of Civil Procedure, 1908, which gives the Court of Learned Civil Judge (Senior Division) No. 1, Kamrup(Metro) the jurisdiction to adjudicate Title Suit No. 328/2026. He, therefore, submits that the present CRP(I/O) filed by the petitioners is liable to be dismissed.

[24] In support of his submission, the respondent appearing in person has cited following rulings:

a) *P. Suresh v. D. Kalaivani and Others* [Judgment dated 03.02.2026 in Civil Appeal No. 739 of 2026 in connection

with Special Leave Petition (Civil) No. 20423/2025]

b) *Hari Ram v. Jyoti Prasad and Another*, reported in (2011) 2 SCC 682

c) *Anil Kumar Jain and Another v. Bhagwan Mahaveer Memorial Samiti and Others* [Judgment dated 15.05.2023 in RFA No. 279/2019 of the High Court of Delhi]

d) *Sadhana Lodh v. National Insurance Company Limited and Another* [Judgment dated 24.01.2003 in Civil Appeal No. 557/2003]

e) *Mohammed Ali v. V. Jaya and Others* [Judgment dated 11 July, 2022 in Civil Appeal No. 4113 of 2022]

f) *Pratheek Kumar v. B.R. Madhusudhan* [High Court of Karnataka's judgment dated 30.01.2026 in WP No. 21131 of 2019]

[25] I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record. I have also gone through the rulings cited by learned counsel for both sides in support of their respective submissions.

[26] On perusal of the materials available on record, it appears that the present respondent, namely Shri Ananta Ram Medhi, has instituted Title Suit No. 328/2026 in his personal capacity as one of the life members of Assam Sahitya Sabha as well as *Hiteishi member* of the said organisation. It also appears that in the suit, apart from the Assam Sahitya Sabha and its office-bearers, the office-bearers of Golaghat Zila Sahitya Sabha and

the office-bearers of some of the committees constituted by the Assam Sahitya Sabha have been made as defendants. In total, nine numbers of defendants have been made party in the suit filed by the present respondent.

[27] First of all, let us discuss as to whether the respondent may appear in person and may plead before the Trial Court as plaintiff without engaging an advocate.

[28] Section 32 of the Advocates Act, 1961 is reproduced hereinbelow for the sake of convenience:

"32. Power of Court to permit appearances in particular cases. *— Notwithstanding anything contained in this Chapter, any court, authority, or person may permit any person, not enrolled as an advocate under this Act, to appear before it or him in any particular case."*

[29] It is pertinent to remember that Section 32 of the Advocates Act, 1961 is included in Chapter IV of the said Act, which deals with the provisions relating to right to practice. Section 29 of the Advocates Act recognizes advocates to be the only class of persons entitled to practice law. As such, Section 32 of the said Act is an enabling exception that allows a court to permit a non-advocate to appear for someone else in a particular case. However, it does not restrict the right of a litigant to present and argue his own case before a court of law.

[30] Order III Rule 1 of the Code of Civil Procedure, 1908 empowers a party in person to appear, file applications, or act in any court. A party appearing in person while arguing or pleading in their own case may not be regarded as "*practicing law"* within the meaning of the Advocates Act,

1961 so as to incur the wrath of the bar provided in Section 32 of the Advocates Act, 1961. A litigant's right to present and argue his own case before the court stems directly from Order III Rule 1 of the Code of Civil Procedure, 1908, as well as from the well-established principles of natural justice. As such, this Court finds no error in the Trial Court allowing the respondent to appear and to plead before it in person in Title Suit No. 328/2026.

[31] On perusal of the Petition Nos. 3372/2026, 3370/2026, and 3371/2026 filed by the present petitioners under Order VII Rule 11 of the Code of Civil Procedure, 1908, it appears that the main ground for seeking rejection of the plaint is that the Court of Learned Civil Judge (Senior Division) No. 1, Kamrup (Metro), as per the contention of the petitioners, does not have the jurisdiction to entertain the said suit as same is barred by Part 13(1) of the Constitution of Assam Sahitya Sabha, which limits the jurisdiction for all litigation against Asam Sahitya Sabha to the courts at Jorhat.

[32] The Trial Court, by the impugned order dated 05.06.2026 passed in Title Suit No. 328/2026, has held that the jurisdiction of the Civil Court cannot be ousted by the provisions of the bye-laws of a registered society like that of the Assam Sahitya Sabha, and it is governed by the provisions contained in the Code of Civil Procedure, 1908.

[33] This Court is in agreement with the observations made by the Trial Court in this regard. Under Section 9 of the Code of Civil Procedure, 1908, Civil Courts have inherent and plenary jurisdiction to try all suits of a civil nature, unless their cognizance is expressly or impliedly barred by statute. The ouster of jurisdiction requires legislative authority. A bar on civil

court's jurisdiction can only be imposed by an Act of Parliament or by State Legislature. The bye-laws of a society are akin to the internal rules, articles of association, or a contract binding members *inter se*. However, same cannot oust the jurisdiction of a Civil Court which is conferred on it by the provisions contained in the Code of Civil Procedure, 1908. As such, this Court does not find any infirmity in the Trial Court holding that the jurisdiction of a Civil Court cannot be ousted by the bye-laws (Constitution) of the Assam Sahitya Sabha.

[34] As regards the main contention raised by the petitioners in this CRP(I/O) that the mandatory procedural requirement of seeking leave under Order I Rule 8 of the Code of Civil Procedure, 1908 prior to filing of a representative suit has not been complied with in this case (Title Suit No. 328/2026), this Court is of the considered opinion that there is no dispute to the legal proposition that if a suit filed by the plaintiff is a representative suit, in that case the requirement of complying with the mandate of Order I Rule 8 of the Code of Civil Procedure, 1908 is necessary. A representative suit may be filed only after seeking leave of the Court under Order I Rule 8 of the Code of Civil Procedure, 1908.

[35] However, the question in this case is as to whether the suit filed by the present respondent was filed in a representative capacity. On perusal of the averments made in the plaint filed in Title Suit No. 328/2026, it appears that the present respondent had filed the suit alleging violation of the provisions of the Constitution of the Assam Sahitya Sabha by the defendants in deciding to hold the *Pratinidhi Sabha* at Golaghat. It also appears that he has filed the suit in his individual capacity as a life member as well as a *Hiteishi* member of the Assam

Sahitya Sabha.

[36] This Court is of considered opinion that merely for the fact that in paragraph Nos. 17 and 19 of the plaint filed by the respondent it is averred that the actions of defendants would be unfortunate to the people of Assam and the members of Asam Sahitya Sabha and they will also suffer irreparable loss and injury, in itself does not make the suit filed by the respondent a representative suit.

[37] The alleged wrongful act of the defendants (petitioners) may simultaneously infringe the rights of numerous persons. However, a person whose individual rights are infringed is not bound to institute a representative suit only for that reason. Such an individual retains full autonomy to bring an ordinary suit in his individual capacity to vindicate his own legal rights. The provisions contained in Order I Rule 8 is of enabling and permissive nature inasmuch as such a person may also file a representative suit. If he chooses to file a representative suit, in such a case prior leave of the Court under Order I Rule 8 would be necessary. However, such a leave may not be necessary if he does not choose to file a representative suit and instead files an ordinary suit in his individual capacity to vindicate his own legal rights, which has happened in the instant case.

[38] The plaintiff (present respondent) has nowhere averred in his plaint that he has filed the Title Suit No. 328/2026 in a representative capacity. As such, this Court finds no infirmity in the order of the Trial Court holding that there is no requirement of complying with the mandate of Order I Rule 8 of the Code of Civil Procedure by the respondent, and as such no grounds have been made out for rejection of the plaint under

Order VII Rule 11 of the Code of Civil Procedure.

[39] As regards the grievance of the petitioners against the order dated 06.06.2026 passed by the Trial Court in Misc.(J) Case No. 599/2026 is concerned, since the said order of granting temporary injunction has been passed by the Trial Court under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908, which is an appealable order under Order XLIII Rule 1(r) of the Code of Civil Procedure, 1908, hence, an application under Article 227 of the Constitution of India is not maintainable against such an order. As such, this Court is of considered opinion that this CRP(I/O) does not merit interference of this Court in the impugned orders in exercise of its supervisory jurisdiction.

[40] For the reasons stated and discussions made in the foregoing paragraphs, this CRP(I/O) is dismissed with cost.

[41] The stay on further proceeding of Title Suit No. 328/2026 granted by this Court is hereby vacated.

[42] Let a copy of this judgment be sent to the Trial Court.

JUDGE

Comparing Assistant

Munmun Boruah
Digitally signed by Munmun Boruah
Date: 2026.11.06 13:47:56 +05'30'