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

Case No. : I.A.(Civil)/3303/2026

SMTI BINITA SHYAM
WIFE OF LATE PRABHAT SHYAM
C/O SHRI SURJYA KANTA SHYAM
RESIDENT OF NA-SHYAM GAON
P.O- BANDOR CHALIHA
DISTRICT- JORHAT
ASSAM PIN-785633

VERSUS

SMTI. JEIKHAM SHYAM
WIFE OF LATE BIRESWAR SHYAM
RESIDENT OF KARSOLI
P.O.- BANDOR CHALIHA
TITABOR DISTRICT- JORHAT
ASSAM
PIN-785633

Advocate for : MR. T J MAHANTA
Advocate for : M. BORDOLOI (FOR CAVEATOR) appearing for SMTI. JEIKHAM SHYAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

11.11.2026

[1] Heard Mr. T.J. Mahanta, the learned Senior

Counsel, assisted by Ms. P. Bhattacharya, the learned counsel for the applicant. Also heard Mr. M. Bordoloi, learned counsel for the opposite party.

[2] This interlocutory application under Order 41 Rule 5 of the Code of Civil Procedure, 1908 has been filed in connection with Regular First Appeal No. 70/2026, praying for stay of execution of the impugned judgment and decree dated 23.06.2026, passed by the court of the learned Civil Judge (Senior Division) in the Title Suit No. 12/2021.

[3] The learned Senior Counsel for the applicant submits that the connected appeal where the aforementioned judgment and decree has been impugned by the present appellant has already been admitted. Hence, he submits that during the pendency of the said appeal, the execution of the impugned judgment and decree is required to be stayed.

[4] On the other hand, the learned counsel for the opposite party submits that the opposite party may not have any objection regarding the prayer made by the applicant provided the applicant complies with the mandate of under Order 41 Rule 1(3) of the Code of Civil Procedure, 1908 by depositing the disputed amount before the court or to furnish any such security in respect of the said as directed by this court.

[5] I have considered the submissions made by

the learned counsel for both sides.

[6] Since in the connected appeal, the judgment of the Trial Court has been questioned and the correctness of the judgment of the Trial Court is questioned mainly on the ground that the Trial Court has erroneously decreed the suit mainly on the ground that the respondent is a Class I heir of the deceased husband of the present appellant in directing that the terminal benefit given to the present appellant may also be shared with the respondent to the extent of 50 %.

[7] After considering the entire aspect of this matter, this court is of the considered opinion that since, the connected appeal has been admitted, the prayer of the applicant may be allowed, subject to furnishing an indemnity bond equivalent to the amount which has been disputed in this appeal with an undertaking that in the event of the connected appeal not resulting into a favourbale order, the applicant shall deposit the decretal amount to the respondent.

[8] This interlocutory application is, accordingly, disposed of.

JUDGE

Comparing Assistant