GAHC010223052026

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

Case No. : CRP(IO)/517/2026

AMINA BEGUM
W/O LATE SIDDIK AHMED, R/O NIRIBILI COMPLEX, BYE LANE NO. 01, BHETAPARA, GUWAHATI, P.O.- BELTOLA, P.S.- HATIGAON, DISTRICT- KAMRUP (METROPOLITAN), ASSAM, PIN- 781028, P/R/O VILL AND P.O.- BARAIGRAM, DIST- SRIBHUMI, ASSAM, PIN- 788723, BEING REPRESENTED BY HER ATTORNEY, REJAUL HAQUE, AGED ABOUT 39 YEARS, S/O LATE MAKIBAR RAHMAN, R/O NIRIBILI COMMPLEX, BYE LANE NO. 01, BHETAPARA, P.O.- BELTOLA, P.S.- HATIGAON, GUWAHATI, DIST- KAMRUP (M), ASSAM, PIN- 781028

VERSUS

SAIKUL ISLAM LASKAR
S/O LATE BASHIR UDDIN LASKAR, R/O VILLAGE- CHIPORSANGAN II, P.O.- CHIPORSANGAN, DISTRICT- HAILAKANDI, ASSAM, PIN- 788801.

Advocate for the Petitioner : MR. A C SARMA, DR. S R A NASER,MR G BHARADWAJ,MR. F AHMED,MR U SARMA,MR G ALAM

Advocate for the Respondent : MR. N ALAM (FOR CAVEATOR), S A BAKHTIAR (FOR CAVEATOR)

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 06.10.2026

1. Heard Mr. A. C. Sarma, the learned senior counsel assisted by Mr. G. Bharadwaj, the learned counsel for the petitioner. Also heard Mr. N. Alam, the

learned counsel for the respondent/Caveator.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner, namely, *Amina Begum*, impugning the order dated 07.09.2026, passed by the Court of learned Civil Judge (Junior Division) No. 2, Kamrup (M), in Misc.(J) Case No. 388/2026, arising out of Title Suit No. 179/2026, whereby the Officer-in-Charge of Dispur Police Station was directed by the Trial Court to render police help to put back the respondent into possession of the suit premises.

3. The facts relevant for consideration of the instant CRP(IO) are that the present respondent, namely, Saikul Islam Laskar had filed a title suit before the Court of learned Civil Judge (Junior Division) No. 2, Kamrup (M) at Guwahati, which was numbered as Title Suit No. 179/2026 against the present petitioner and two others, praying for a declaration to the effect that the present respondent is a *bona fide* tenant under the present petitioner in terms of tenancy agreement dated 15.12.2015, which was notarized on 29.12.2015. In the suit, apart from the declaratory relief, the present respondent also sought the relief of permanent injunction against the present petitioner, who is the principal defendant in the connected title suit, by restraining her from causing any kind of nuisance, obstruction, annoyance, threat or intimidation to the plaintiff/present respondent in respect of his peaceful enjoyment and running of business activities in the suit premises by the name and style of "Suma Guest House".

4. Along with the aforesaid Title Suit, the present respondent had also filed an application under Order 39 Rules 1 & 2 of the Code of Civil Procedure,

1908 seeking temporary injunction against the principal defendant/present petitioner from restraining them from causing any kind of nuisance, obstruction, annoyance, threat or intimidation. It also appears that the Trial Court, by order dated 27.07.2026, passed in Misc.(J) Case No. 341/2026, arising out of Title Suit No. 179/2026, issued notice to the present respondent, however, while doing so, both the parties were directed to maintain *status quo* over the suit premises till filing of the written statement by the opposite party.

5. The next date for filing of the written statement was fixed on 27.08.2026. However, later on, on an off date, i.e., on 24.08.2026, the present respondent filed an application under Order 39 Rule 2A of the Code of Civil Procedure, 1908 before the Trial Court alleging willful violation of the order of the Trial Court to maintain *status quo*, which was passed on 27.07.2026 in Misc. (J) Case No. 341/2026. On the basis of the said application, a new Misc.(J) Case i.e., Misc. Case No. 387/2026 and same was put up before the Court of learned Civil Judge (Junior Division) No. 2 on 27.08.2026.

6. On that day, another application was filed by the present respondent under Section 151 of the Code of Civil Procedure, 1908 wherein the present respondent alleged that he was illegally dispossessed from the suit premises in spite of a restraining order, i.e., order dated 27.07.2026, passed in Misc.(J) Case No. 341/2026. In the said petition which was was registered as Petition No. 2025/2026, the respondent had prayed for restoration of his possession with police help.

7. The Trial Court, by its order dated 27.08.2026, had notified the present petitioner and afforded her an opportunity of filing a written objection in respect

of the petition for police help filed by the present respondent under Section 151 CPC. The said matter was fixed on 07.09.2026 for filing written objection.

8. Mr. A. C. Sarma, the learned senior counsel for the petitioner submits that the husband of the present petitioner was suffering from cancer and was admitted at Silchar Cancer Centre. As such, on the next date fixed before the Trial Court, i.e., on 07.09.2026, she filed an adjournment petition seeking some more time to file written objection against the petition filed by the present respondent for police help. He further submits that, in the meantime, the petitioner had also filed an FIR before the Officer-in-Charge of Dispur Police Station against the present respondent alleging forgery on the part of the present respondent in preparing the tenancy agreement dated 15.12.2015. It was also alleged in the FIR that when the present petitioner went to inspect the suit land, the respondent prevented her from doing so and abused her in obscene language and tried to physically assault her.

9. The learned senior counsel for the petitioner submits that on the basis of the said FIR, a police case was registered in which the present respondent was also arrested. He, however, submits that in spite of the fact that the petitioner's husband was suffering from cancer and was admitted at Silchar Cancer Centre, the Trial Court, by its order dated 07.09.2026, passed in Misc.(J) Case No. 388/2026, which is impugned in this CRP(IO), refused to grant the present petitioner additional time for filing written objection. Rather, he submits that it issued directions to the Officer-in-Charge of Dispur Police Station to restore the possession of the present respondent over the suit land.

10. He further submits that the order of the Trial Court is self-contradictory,

in as much as in Paragraph No. 16 of the impugned order, the Court has only speculated that if the allegations of violation of the ad-interim order is found to be true, the petitioner i.e., the present respondent, would be without any shelter. He submits that before issuing the direction for police help, the Trial Court ought to have ascertained the status of the suit premises. He submits that in this case, which was registered on the basis of an application filed by the present respondent under Order 39 Rule 2A of the Code of Civil Procedure, 1908, no evidence was adduced till date, hence, the actual status of the suit premises was not known to the Trial Court while directing both the parties to maintain *status quo* over the suit premises as well as while directing the police help to restore possession of the respondent in the suit premises.

11. The learned senior counsel for the petitioner submits that before ordering an interim mandatory injunction, as was done by the Trial Court by the impugned order for restoring the possession of the respondent over the suit premises, the Court ought to have first ascertained whether the respondent was actually in possession, on the date of filing of the suit, and on the date when the order of *status quo* was passed by the Trial Court and that he has been dispossessed therefrom on 21.08.2026. He submits that an order of interim mandatory injunction is not a remedy that is easily granted. It is an order that is passed only in circumstances which are clear, and *prima facie* materials clearly justify a finding that *status quo* has been altered by one of the parties to the litigation and in the interest of justice, *status quo ante* has to be restored by way of interim mandatory injunction. In support of his submission, the learned senior counsel for the petitioner has cited a ruling of the Apex Court in the case of "***Kishore Kumar Khaitan and another Vs. Praveen Kumar Singh***", reported in "***(2006) 3 SCC 312".***

12. The learned senior counsel for the petitioner has also submitted that the suit premises has already been rented to another person by the present petitioner, namely, Minhaz Alam Laskar, on 29.05.2026, and it is he who is in possession of the suit premises. Under aforesaid circumstances, the learned senior counsel for the petitioner has submitted that the matter may be remanded back to the Trial Court with a direction allow the present petitioner some time to file written objection and till that period keep the impugned order stayed.

13. On the other hand, Mr. N. Alam, the learned counsel for the respondent has vehemently opposed the submissions made by the learned senior counsel for the petitioner. He submits that the present respondent had filed the Title Suit No. 179/2026 against the present petitioner on 27.07.2026 with prayer for grant of declaratory relief and injunction. He submits that from the nature of relief sought for by the respondent in his plaint, it would be clear that on the date of filing of the plaint, it is the present respondent, who was in possession of the suit premises.

14. He further submits that the respondent was doing the business in the name and style of "Suma Guest House" by obtaining valid trade license since 2015. He further submits that even in the FIR which was falsely lodged by the present petitioner against the respondent, the fact of the present respondent having possession over the suit premises has been admitted.

15. He further submits that in the FIR which was lodged by the present petitioner on 18.08.2026, it has been admitted that the present respondent was the resident of Suma Guest House on the date of filing of the said FIR, which

substantiate the plea of the respondent that he was in possession of the suit premises. He further submits that the Trial Court before granting the police help under Section 151 of the Code of Civil Procedure, 1908 afforded opportunity to the present petitioner to file written objection. It is only on her failure to file written objection on the date fixed and considering the urgency of the circumstances, the Trial Court had allowed the police help for restoration of his possession.

16. However, the learned counsel for respondent submits that the next date in the Misc.(J) Case No. 388/2026 is fixed on 07.10.2026 i.e., tomorrow, on which the Officer-in-charge of Dispur Police Station has to give compliance report. However, till date nothing has been done from the side of the police. He, therefore, submits that this matter may be remanded back to the Trial Court and the Trial Court may consider the prayers made by both sides on merit.

17. I have considered the submissions made by the learned counsel for both sides and have gone through the materials on record.

18. The pleas raised by both the parties as regards possession over the suit premises are opposite pleas wherein on the one side, the respondent is claiming that till 21.08.2026, he was in the possession of the suit premises. On the other hand, the petitioner is claiming that the suit premises has been given on rent to another person, namely, Minhaz Alam Laskar on 29.05.2026.

19. The veracity of the rival contentions of both the parties can be ascertained only before the Trial Court by adducing evidence before the Trial Court.

20. Though, the Trial Court has had directed police help for restoring the possession of the respondent over the suit premises, however, the said direction has not yet been complied by the police till date and the matter is fixed tomorrow before the Trial Court. It also appears that the application filed by the present respondent before the Trial Court alleging willful violation of the interim injunction granted by the Trial Court on 27.07.2026 is still pending before the Trial Court.

21. Under such circumstances, as well as also considering documents produced by the present petitioner in support of her contention that her husband was suffering from cancer when the application under Section 151 of the CPC filed by the present respondent was taken up for consideration by the Trial Court on 07.09.2026, this Court is of considered opinion that ends of justice will be served if an opportunity of filing a written objection against the petition filed by the respondent under Section 151 of the CPC is given to the present petitioner so that the Trial Court may consider all aspects of the matter before deciding the rival contentions of the parties.

22. As such, the petitioner is given a liberty to approach the Trial Court again tomorrow and pray for some time for filing written objection and the Trial Court, after considering its own board, may allow such prayer giving a short date for filing such objection and thereafter shall decide the application filed by the present respondent under Section 151 of the CPC seeking police help afresh as expeditiously as possible.

23. Till such decision is taken, the direction for police help given by the Trial Court in the impugned order dated 07.09.2026, passed in Misc.(J) Case No.

388/2026 shall remain stayed.

24. With the above observation, this CRP(IO) is disposed of.

25. Let a copy of this order be sent to the Trial Court.

JUDGE

Comparing Assistant