GAHC010237442026

undefined

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

Case No. : I.A.(Civil)/3868/2026

KAMALESH DEY AND 2 ORS.
S/O LATE KANU DEY
R/O BASHBARI SHANTIPARA
P.O.
P.S. AND DISTRICT- DIBRUGARH
ASSAM

2: KANKAR DEY
S/O LATE KANU DEY
R/O
BASHBARI SHANTIPARA
P.O.
P.S. AND DISTRICT- DIBRUGARH
ASSAM

3: SMTI. ANJANA DEY
W/O LATE KANU DEY
R/O SANTIPARA
PUJA LANE
P.O.
P.S. AND DISTRICT - DIBRUGARH
ASSAM
VERSUS

SMTI. RUPA BOSE (DAS) AND 5 ORS.
D/O LATE NIRMAL KUMAR BOSE
R/O HIJUGURI GATE NO. 1
RABINDRA NAGAR
P.O.
P.S. AND DISTRICT - TINSUKIA
ASSAM (LEGAL HEIR OF SMTI. ANJALI BOSE)

2:DEBU BOSE
S/O LATE NIRMAL KUMAR BOSE

R/O HIJUGURI GATE NO. 1
RABINDRA NAGAR
P.O.
P.S. AND DISTRICT - TINSUKIA
ASSAM (LEGAL HEIR OF SMTI. ANJALI BOSE)

3:SMTI. PUSHPA DAS
D/O LATE HARIDAS DEY
W/O SRI AJIT DAS
R/O BASHBARI BARUAH PATHAR
P.O.
P.S. AND DISTRICT- DIBRUGARH
ASSAM

4:DULU DEY
S/O LATE HARIDAS DEY
R/O SHANTIPARA
BANSHBARI
P.O.
P.S. AND DISTRICT - DIBRUGARH
ASSAM

5:SMTI. MAMPI PAUL
W/O SRI ABHIJIT PAUL
R/O GANGAPARA
DIBRUGARH
ASSAM

6:SMTI. KAVITA BHATTACHARJEE
W/O SRI SUMAN BHATTACHARJEE
R/O NARAYANI RABIN NIWAS
FLAT NO. 3C
GOPAL THAN
WEST GOTA NAGAR
NEAR NIRIBILI PATH
P.O.- MALIGAON
GUWAHATI- 781011
ASSAM

Advocate for : MR. D MOZUMDER
Advocate for : MR M BORO (FOR CAVEATOR) appearing for SMTI. RUPA BOSE (DAS) AND 5 ORS.

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

11.11.2026

[1] Heard Mr. D. Mozumder, the learned Senior Counsel, assisted by Mr. G.R. Dutta, the learned counsel for the applicants. Mr. R. Ali, the learned counsel for the caveator/opposite parties Nos. 1 to 4.

[2] This application under Order XLI Rule 5 of the Code of Civil Procedure, 1908 has been filed by the applicants, in connection with Regular Second Appeal No. 189/2026, praying for stay of execution of the judgment and decree dated 21.07.2026, passed in Title Appeal No. 01/2023, by the Court of the learned Civil Judge(Senior Division), Dibrugarh.

[3] The learned Senior Counsel for the applicants submits that the aforesaid judgment and decree has been impugned by the present applicants in connected Regular Second Appeal No. 189/2026 and said appeal has been admitted by this court after formulating substantial questions of law. Though the learned counsel for the respondent Nos. 1 to 4 has submitted that the respondents have not yet filed any execution case. Hence, the question of staying the execution proceeding does not arise. He further submits that the respondents also undertakes not to file any execution case before a decision is arrived at in the

connected Regular Second Appeal, however, after considering the facts of this case in its entirety and as well as considering the fact that the connected Regular Second Appeal has been admitted after formulating substantial question of law, the execution of the impugned judgment and decree dated 21.07.2026, passed in Title Appeal No. 01/2023 shall remain stayed till the pendency of the Regular Second Appeal No. 189/2026. Since the opposite parties Nos. 1 to 4 are the main contestants/defendants before the trial court. Hence, in this interlocutory application, notice to opposite parties Nos. 5 and 6 is waived and this interlocutory application is, accordingly, disposed of.

JUDGE

Comparing Assistant