GAHC010260022026

2026:GAU-AS:17450

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

Case No. : CRP/221/2026

PINUEL BASUMATARY AND 3 ORS
S/O LATE KRISTODAS BASUMATARY, R/O FLAT NO. 1A, POOJA APARTMENT, K.K. ROAD, CHENIKUTHI HILL SIDE, P.O.- SILPUKHURI, GUWAHATI, ASSAM - 781003.

2: ARCHIBALD KHARPURI @ ARCHIE KHARPURI
S/O P. L. SYIEMLIEH
R/O UMLYNGKA
LUMPONGDENG
SHILLONG - 793005
EAST KHASI HILLS DISTRICT
MEGHALAYA.

3: FRANCIS R INGTY
S/O LATE LAWRENCE S INGTY
R/O DSCC86 LOWER CLEVE COLONY
DHANKHETI
SHILLONG - 793003.

4: SUBHASIS CHAKRAWARTY
SON OF LATE SUKUMAR CHAKRAVORTY
RESIDENT OF ARBUTHNOT ROAD
NONGRIMMAW
LAITUMKHRAH
SHILLONG
EAST KHASI HILLS DISTRICT
MEGHALAYA- 79300

VERSUS

JOHN SANGMA DANGOU AND 5 ORS
SON OF SUBESH SANGMA DANGOU, RESIDENT OF HOUSE NO. 358, JALIKONA, CHANDRAPUR, KAMRUP (M), ASSAM - 781150.

2:THE SYNOD OF THE CHURCH OF NORTH INDIA
THROUGH ITS GENERAL SECRETARY
HAVING ITS OFFICE AT CNI BHAWAN
16
PANDIT PANT MARG
NEW DELHI - 110001.

3:THE SYNOD EXECUTIVE COMMITTEE OF THE CHURCH OF NORTH INDIA
THROUGH ITS MODERATOR AND GENERAL SECRETARY
CNI BHAWAN
16
PANDIT PANT MARG
NEW DELHI - 110001.

4:REV. DR. D.J. AJITH KUMAR
GENERAL SECRETARY
CNI SYNOD
CNI BHAWAN
16
PANDIT PANT MARG
NEW DELHI - 110001.

5:THE MOST REV. DR. PARITOSH CANNING
MODERATOR
CNI SYNOD
CNI BHAWAN
6
PANDIT PANT MARG
NEW DELHI - 110001.

6:THE RT. REV. DR. SILVANS S CHRISTIAN
DEPUTY MODERATOR
CNI SYNOD
MODERATORS EPISCOPAL COMMISSARY FOR THE DIOCESE OF NORTH EAST INDIA AND PURPORTED PRESIDENT OF THE AD-HOC COMMITTEE
CNI BHAWAN
16
PANDIT PANT MARG
NEW DELHI -110001

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioners : Shri P. Bhowmick, Advocate.

Advocate for the respondents : Shri R. K. Bhuyan, Sr. Advocate.
Shri C. Garg, Advocate.
Shri A. Singh, Advocate.

Date of hearing : **20.11.2026**
Date of Judgment : **25.11.2026**

JUDGMENT & ORDER

1. The instant application has been filed under Section 115 of the Civil Procedure Code, 1908, read with Article 227 of the Constitution of India, challenging the judgment and order dated 30.09.2026 passed by the learned Additional District Judge No. 5, Kamrup (M), Guwahati, in Misc. Appeal Case No. 43/2026. By the said impugned order, the learned Appellate Court has dismissed the appeal and affirmed the *ex parte* order of injunction dated 21.08.2026 passed by the learned Civil Judge (Senior Division) No. 1, Kamrup (M), in Misc. (J) Case No. 1064/2026.

2. Before coming to the grounds of challenge, it would be convenient if the facts of the case are narrated in brief.

3. The petitioners herein are the defendants in the suit filed for declaration and permanent injunction *qua* an order dated 27.07.2026. Vide the

said order, the Executive Committee of the Diocese of North East India has been superseded by an *ad hoc* committee. The title suit was registered as Title Suit No. 571/2026 along with which, Misc. (J) Case No. 1064/2026 was filed for *ad interim* injunction.

4. The learned Civil Judge (Senior) Division No. 1, Kamrup (M), Guwahati, vide order dated 21.08.2026, had passed an *ex parte* injunction. The petitioners, who were the defendants, had filed an appeal before the Court of the learned Additional District Judge No. 5, Kamrup (M), which was registered as Misc. Appeal Case No. 43 of 2026. The learned Appellate Court however, vide order dated 30.09.2026, has dismissed the appeal. It is the validity and legality of the aforesaid order dated 30.09.2026, affirming the *ex parte* injunction dated 21.08.2026 which has been questioned in this petition.

5. I have heard Shri P. Bhowmick, learned counsel for the petitioner. I have also heard Shri R. K. Bhuyan, learned Senior Counsel, assisted by Shri C. Garg, learned counsel for contesting respondent. I have also heard Shri Anshuman Singh, learned counsel for proforma respondents.

6. Shri Bhowmick, the learned counsel for the petitioners, at the outset, has submitted that while passing the *ex parte* injunction dated 21.08.2026, the learned Trial Court has failed to abide by the law laid down in Order 39 Rule 3 of the CPC. He has submitted that an *ex parte* order injunction can be passed only in exceptional circumstances, which mandatorily require recording of reasons. He has submitted that in the impugned order, no reasons have been recorded, which is a mandatory requirement under the aforesaid provision of law. He has submitted that while the clients had the option to file an objection before the Trial Court, they had chosen to prefer the aforesaid appeal before the learned

Additional District Judge No. 5, Kamrup (M). The learned Court, however, vide the impugned Order dated 30.09.2026, has dismissed the appeal. He has submitted that the learned Appellate Court has failed to notice the illegality and material irregularity committed by the learned Trial Court in not recording the reasons before passing the *ex parte ad interim* injunction. He has submitted that the *ad hoc* committee was duly constituted and there were no grounds to challenge the same.

7. In support of his submissions, Shri Bhowmick, the learned counsel has relied upon the case of ***Shiv Kumar Chadha v. Municipal Corporation of Delhi,*** reported in **(1993) 3 SCC 161**. By drawing the attention of this Court to the observations made in paragraph 32 of the said judgment, he has emphasized that the Hon'ble Supreme Court has laid down that reasons are to be recorded for passing an *ex parte* interim order if the delay would defeat the rights. He has submitted that no such reasons have been recorded stating that any delay in passing the interim order would defeat the rights of the plaintiff. He has further relied upon the case of ***Morgan Stanley Mutual Fund v. Kartick Das,*** reported in **(1994) 4 SCC 225**, and the observations made by the Hon'ble Apex Court in paragraph 36 have been pressed into service.

8. Shri Bhowmick, the learned counsel has also highlighted that the plaintiff was one member of the Executive Committee, which comprised a total of 15 members. In the meantime, nine members have filed an application in the appeal stating that they were not interested in continuing as Executive Committee members. He submits that these all are relevant considerations which neither the Trial Court nor the Appellate Court had appreciated. He accordingly submits that the present is a fit case for interference in exercise of

revisional jurisdiction of this Court.

9. *Per Contra*, Shri Bhuyan, learned Senior Counsel for contesting respondent has strenuously opposed this petition. He has, at the outset, submitted that the very basis of this petition is incorrect. By drawing the attention of this Court to the *ex parte* order dated 21.08.2026, he has submitted that the learned Trial Court had considered the urgency involved, and in this connection, he has referred to the observations made in paragraph 4 of the impugned order.

10. By drawing the attention of this Court to the application under Section 151 filed by nine members who have allegedly disassociated themselves, the learned Senior Counsel has submitted that a bare perusal of the said application would reveal that the affidavit has been sworn only by four members and further that some of those members had earlier resigned. He has contended that the Executive Committee is functioning and that the tenure of the *ad hoc* committee is 6 (six) months, which is due to expire shortly. He submits that the next date fixed in the case is 02.01.2027, and the present petitioners would be fully entitled to raise their objections in the injunction application, which would be decided by the learned Trial Court in accordance with law.

11. In his rejoinder, Shri Bhowmick, the learned counsel for the petitioners, has submitted that the plaintiff is apparently set up by certain members who have not come before this Court, and has accordingly reiterated his prayer for interfering with the impugned order dated 30.09.2026.

12. Shri Singh, learned counsel for the proforma respondents, has, however, supported the case of the petitioners. He has submitted that the plaintiff could

not have espoused the case of the Executive Committee as such, and therefore, passing an injunction with regard to the impugned order dated 27.07.2026 against the entire body was uncalled for. In this regard, he has referred to the provision of Order 1 Rule 8 of the CPC and has submitted that at best, the learned Court could have allowed the plaintiff to continue in the committee. He has further submitted that due to the impugned order, all functions have been brought to a halt.

13. The rival contentions advanced at the Bar have been duly considered and the materials placed before this Court have been perused.

14. The principal ground urged by Shri Bhowmick, learned counsel for the petitioners, is that while passing the *ex parte ad interim* order, the requirement of law, as laid down in Order 39 Rule 3 CPC has not been followed. The specific argument is that while the aforesaid provision of law requires recording of reason, the same has not been followed.

15. On the other hand, Shri Bhuyan, learned Senior Counsel for the respondents has submitted that reasons have indeed been recorded and, in this connection, has drawn the attention of this Court to the observations made in paragraph 4 of the order which have been indicated above. A bare perusal of the discussion in the said paragraph would show that the learned Trial Court has recorded a finding that there was urgency. However, the reasons why and how such urgency existed have not been recorded.

16. This Court has also taken into consideration the fact that, while the impugned order of supersession is dated 27.07.2026, the suit was filed after a lapse of almost five months. Therefore, the learned Trial Court, which has the

discretion to pass an *ad interim ex parte* order, was bound to record adequate reasons, more so when sufficient time has already elapsed.

17. This Court has also found force in the submissions of Shri Singh, learned counsel for the proforma respondent, who has submitted that it is not the Executive Committee which was before the learned Trial Court in the suit, but one member of the Executive Committee, and therefore, the *ex parte* interim order could not have been passed in a manner that suspended the entire impugned communication dated 27.07.2026. This Court finds force in the submission that at best, the injunction could have been *qua* the plaintiff by making suitable directions to allow him to continue in the committee.

18. At the same time, this Court has noticed that the *ex parte* injunction was passed on 21.08.2026, and the appeal was dismissed on 30.09.2026. The tenure of the *ad hoc* committee, as pointed out and as would be revealed from the order dated 27.07.2026, is 6 (six) months, which is to expire in January, 2027. This Court has also been informed that the next date fixed for hearing the injunction application before the learned Trial Court is 02.01.2027.

19. This Court is of the opinion that, while the learned Trial Court may not have been entirely correct in passing the *ex parte* interim injunction dated 21.08.2026 without recording adequate reasons, more particularly in view of the expiry of a considerable period of time, this Court, by taking into consideration that the tenure of the *ad hoc* committee is 6 (six) months, is of the view that the injunction application is liable to be heard expeditiously. This Court is also of the view that the injunction can be considered only for the plaintiff's interest and not for the entire Executive Committee.

20. In view of the aforesaid discussion, the instant petition stands allowed to the extent that the next date for hearing the injunction application is preponed to 09.12.2026, prior to which the present petitioners may file their objections, if not already done.

21. The learned Trial Court is accordingly directed to decide the injunction application on the next date fixed, i.e. 09.12.2026 strictly in accordance with law and in terms of the observations made in this order. *Status quo* be maintained till the next date fixed i.e. 09.12.2026.

22. The petition accordingly stands disposed of.

JUDGE

Comparing Assistant