

GAHC010001072025



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

Case No. : I.A.(Civil)/2444/2025
in
RFA/41/2025

RAJENDRA PRASAD TRIVEDY AND 2 ORS
S/O LATE NRITYA LAL TIWARI
R/O 12
BLOCK II
SECOND FLOOR
RUKMINI GREEN
RUKMINI GAON
GUWAHATI
P.O. ASSAM SACHIVALAYA
DIST. KAMRUP (M)
ASSAM 781006

2: PARTHA PATIM TIWARI
S/O LATE NRITYA LAL TIWARI
C/O SRI MADAN SARMA
HOUSE NO. 39 JURANI PATH
RUKMINI GAON
GUWAHATI
DIST. KAMRUP (M)
ASSAM 781006

3: SMT. SWARNALATA CHAKRABORTY
W/O SRI ASHESH CHAKRABORTY
D/O LATE NRITYA LAL TIWARI
2ND LINK ROAD SILCHAR
DIST. CACHAR
ASSAM 788006
VERSUS

SANJAY KUMAR MORE AND ANR
S/O SRI MAHENDRA KUMAR MORE
R/O R.K. BOSE ROAD

WARD NO. V
P.S. AND P.O. DHUBRI
DIST. DHUBRI ASSAM 783301

2:AJAY KUMAR MORE
S/O SRI MAHENDRA KUMAR MORE
R/O R.K. BOSE ROAD
WARD NO. V P.S. AND P.O. DHUBRI
DIST. DHUBRI
ASSAM 783301

Advocate for : MR. K SINGHA
Advocate for : appearing for SANJAY KUMAR MORE AND ANR

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

24-09-2025

Heard Mr. K. Singha, learned counsel for the applicant/appellant and Mr. R. K. Jain, learned counsel for the respondent Nos. 1 and 2.

2. This application under Order 41 Rule 5, read with Section 151 CPC, is preferred for staying the execution of the judgment and decree dated 30.09.2024, passed by the learned Civil Judge (Sr. Div.), Dhubri in Title Suit No. 12/2012.

3. It is submitted by Mr. Singha, learned counsel that the T.Ex. Case No. 02/2025 has already been proceeded for execution of the decree passed in T.S. No. 12/2012 and vide order dated 02.06.2025 the judgment debtor/present appellant was also directed to furnish the certified copy of the stay order.

4. He further submitted that if the decree is executed during the pendency of the connected RFA, which has already been admitted, the purpose of filing the appeal will become infructuous and hence, he prayed for stay of the execution

of the judgment and decree dated 30.09.2024, passed by the learned Civil Judge (Sr. Div.), Dhubri in Title Suit No. 12/2012 till disposal of the connected RFA.

5. Mr. Jain, learned counsel appearing for the respondents submitted in this regard that he is not in a position to submit anything as the appeal memo which has been furnished to him is incomplete and annexures filed along with the appeal memo is not legible.

6. In view of above, the appellant is hereby directed to furnish a fresh legible copy of the memo of appeal including the annexures and other documents.

7. Further, considering the submissions of the learned counsel for the parties and also considering the fact that the T.Ex Case No. 02/2025 has already been proceeded, the execution of the judgment and decree dated 30.09.2024, passed by the learned Civil Judge (Sr. Div.), Dhubri in Title Suit No. 12/2012 is hereby stayed, till next date of listing of the matter.

8. List this matter after the puja vacation, on a date to be fixed by the Registry.

JUDGE

Comparing Assistant