

GAHC010027042017



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

Case No. : FAO/35/2017

AMIR ALI and 3 ORS
S/O RAJAN ALI

VERSUS

ON THE DEATH OF LATE MUSSTT NURUBI BIBI @ MUSSTT KARUN
BEGUM, HER LEGAL HEIRS and 20 ORS
NA

1.1:ASAB UDDIN(SON)
R/O VILL NORTH NAYAGRAM

PO. UMORPUR
PS. BADARPUR
DIST. SHRIBHUMI
ASSAM

1.2:REJAN BIBI(DAUGHTER)
W/O ABDUL KALAM
R/O VILL WEST NAYAGRAM

P.O. UMORPUR
PS. BADARPUR

DIST. SRIBHUMI
ASSAM

2:MUSSTT. SOLIMA BEGUM
D/O LATE ARJAN ALI

VILL JALAPUR
PO. MALUA
PS. BADARPUR

DIST. KARIMGANJ
ASSAM(788806)

3:MOMUNNESSA @ EKLIMA
D/O LATE ARJAN ALI

W/O ABDUL NOOR

VILL WEST HASHANPUR

P.O. MOHAKAL BLOCK
P.S. BADARPUR

DIST. KAIMGANJ
ASSAM(788806)

4:MOKHIMA BEGUM
D/O LATE ARJAN ALI

W/O ANGUR ALI
VILL DEORAIL

PO. AND PS. BADARPUR

DIST. KARIMGANJ
ASSAM.(788806))

5:FATIMA BEGUM
D/O LATE ARJAN ALI

W/O SIRAJ UIDDIN

VILL NOYAPATHAN

POI. BHANGABAZAR
PS. BADARPUR
DIST. KARIMGANJ
ASSAM
(788701)

6:THE STATE OF ASSAM
REPRESENTED BY THE DEPUTY COMMISSIONER
KARIMGANJ
PO. AND PS. DIST. KARIMGANJ
ASSAM
788710

7:THE CIRCLE OFFICER

BADARPUR
P.O AND PS. BADARPUR

DIST. KARIMGANJ
ASSAM

PIN 788710

8:THE SUB REGISTRAR
BHANGABAZAR

P.O. BHANGABAZAR
PS. BADARPUR

DIST. KARIMGANJ
ASSAM
78871

Advocate for the Petitioner : MRS.R CHOUDHURY, MS.N BEGUM,MS.A BEGUM

Advocate for the Respondent : MR. M H RAJBARBHUIYAN(R, MR. M H RAJBARBHUIYAN,ADDL. SR. GA, ASSAM (R-6,7,8),MR G BHARADWAJ(R-2,3,4,5)

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 02.04.2026

- 1.** Heard Ms. R. Choudhury, learned counsel for the appellants. Also heard Mr. M. H. Rajbarbhuiyan, learned counsel for the respondent Nos. 2 to 5 and Ms. M. Kalita, learned Government Advocate appearing for the respondent Nos. 6, 7 and 8.
- 2.** This appeal under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908 has been filed by the appellants impugning the order dated 04.05.2017, passed by the Court of learned Civil Judge, Karimganj, in Misc. Case No. 111/2016, arising out of Title Suit No. 33/2016, whereby the prayer for grant of temporary injunction by the present appellants during the pendency of the aforesaid suit was dismissed.
- 3.** The facts relevant for consideration of the instant appeal, in brief, is that the

present appellants had filed a suit for specific performance of contract as plaintiffs before the Court of learned Civil Judge, Karimganj. The said suit was registered as Title Suit No. 33/2016. Presently, the said suit is pending before the Court of learned Civil Judge (Senior Division) No. 3, Sribhumi. The registration number of the title suit has also been changed to Title Suit No. 42/2022. In the aforesaid suit, the present appellants also filed application under Order 39 and Rules 1 and 2 of the Code of Civil Procedure, 1908, praying for grant of temporary injunction against the private respondents. However, by the order dated 04.05.2017, the trial court declined to grant any relief under Order 39 and Rules 1 and 2 of the Code of Civil Procedure, 1908 to the present appellants. The aforesaid order has been impugned in this appeal.

4. At the outset, the learned counsel for the appellants submits that at the time of issuing notice in the instant first appeal on 14.06.2017, this Court directed both the parties to maintain status quo in respect of the suit land. The said order of *status quo* is still subsisting as even after appearance in this appeal by the private respondents, no application for vacation of the aforesaid *status quo* order has been filed by the private respondents. She further submits that, in the meanwhile, the Title Suit No. 33/2016 which was renumbered as Title Suit No. 42/2022 has proceeded and has reached its final stage of argument.

5. She submits that in view of the progress made in the trial of the connected suit, the *status quo* order issued by this court, by its order dated 14.06.2017, may be directed to be continued and this appeal may be disposed of on that terms.

6. On the other hand, Mr. M. H. Rajbarbhuiyan, learned counsel for the private respondents has submitted confirmed the submissions made by learned counsel for the appellants to the extent that the connected suit, i.e., Title Suit No. 42/2022 has reached its final stage and is pending at the stage of argument. He submits that he does not have any objection if the *status quo* order granted by this court, by its order dated 14.06.2017 is allowed to be continued till the pendency of the aforesaid title

suit. He further submits that the private respondents are not going to alienate the suit property during the pendency of the connected Title Suit No. 42/2022.

7. After considering the submissions made by learned counsel for the parties, this court is of considered opinion that since last more than 8(eight) years, the parties have maintained *status quo* in respect of the suit property in pursuant to the order dated 14.06.2017 and are agreeable to continue to do so till the pendency of the connected Title Suit No. 42/2022.

8. In view of the submissions made by learned counsel for both sides, this court deems it proper that instead of deciding this appeal on merit, it may be disposed of on the basis of submissions made by learned counsel for both the parties, more specifically, by the learned counsel for the private respondents that the private respondents are agreeable to maintain *status quo* in respect of the suit property. As such, this appeal is disposed of with a direction that the *status quo* over the suit property as directed by this court by its order dated 14.06.2017 shall continue till the pendency of the connected Title Suit No. 42/2022.

9. The trial court is directed to dispose of the connected title suit as expeditiously as possible.

JUDGE

Comparing Assistant