

GAHC010028902026



2026:GAU-AS:2572

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

Case No. : CRP(IO)/38/2026

SMT. SHANTI DEVI ARYA AND ANR
W/O LATE SUGANCHAND ARYA, R/O H. NO- 20, 2ND FLOOR, JORPUKHURI
EAST, J.B. LANE, UZAN BAZAR, GUWAHATI-781001, DIST- KAMRUP (M),
ASSAM

2: RAJKUMAR ARYA
S/O LATE SUGANCHAND ARYA AND SMT. SHANTI DEVI ARYA
R/O H. NO.- 20
2ND FLOOR
JORPUKHURI EAST
J.B. LANE
UZAN BAZAR
GUWAHATI-781001
DIST- KAMRUP (M)
ASSA

VERSUS

ANIL KUMAR JAIN HUF AND 2 ORS
REPRESENTED BY SRI ANIL KUMAR JAIN AND SAHEB JAIN, R/O J.N.
ROAD, CHAIGALI, FANCY BAZAR, GUWAHATI-781001, P.O. AND P.S.- PAN
BAZAR, DIST- KAMRUP (M), ASSAM AND ALSO C/O TANSUKHRAI
RATANLAL JEWELERS, 1ST AND 2ND FLOOR, SHOPPERS POINT, FANCY
BAZAR, GUWAHATI-781001, DIST- KAMRUP (M), ASSAM

2:ANIL KUMAR JAIN
KARTA OF ANIL KUMAR JAIN HUF
R/O J.N. ROAD
CHAIGALI
FANCY BAZAR
GUWAHATI-781001
P.O./P.S.- PAN BAZAR
DIST- KAMRUP (M)
ASSAM

3:SAHEB JAIN
ONE OF THE COPARCENERS OF ANIL KUMAR JAIN HUF
R/O J.N. ROAD
CHAIGALI
FANCY BAZAR
GUWAHATI-781001
P.O./P.S.- PAN BAZAR
DIST- KAMRUP (M)
ASSAM

3:SRI SAHEB JAIN
JN ROAD
CHAIGALI
FANCY BAZAR
GUWAHATI
KAMRUP
M
ASSA

Advocate for the Petitioner : MR. A KABRA, M KABRA

Advocate for the Respondent : MR K JAIN (FOR CAVEATOR), S A BAKHTIAR (FOR CAVEATOR)

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

20.02.2026

Heard Mr. A. Kabra, learned counsel for the petitioners and Mr. N. Alam, learned counsel for the respondents.

2. In this petition, under Article 227 of the Constitution of India read with Section 151 of the CPC, the petitioners have challenged the order dated 29.01.2026, passed by the learned Additional District Judge (FTC) No. 4, Kamrup (M) at Guwahati (appellate court hereinafter), in Misc. (J) Case No. 01/2026, arising out of Misc. Appeal No. 04/2026.

3. It is to be noted here that vide impugned order dated 29.01.2026, the learned appellate court has stayed the order dated 24.10.2025, passed by the learned Civil Judge (Senior Division) No. 2, Kamrup (M) at Guwahati (trial court hereinafter), in Misc. (J) Case No. 958/2025, arising out of Title Suit No. 634/2025.

4. Mr. Kabra, learned counsel for the petitioners submits that the petitioners herein, as plaintiffs, has instituted one title suit, being Title Suit No. 634/2025, for declaration of right, title, interest and consequential reliefs in respect of the suit property. Mr. Kabra further submits that along with the aforesaid suit, the petitioners had filed an application, under Order XXXIX Rules 1 and 2 CPC. Thereafter, by a reasoned order dated 24.10.2025, the learned trial court, after considering the pleadings and materials on record, had granted an order of status quo, restraining the respondents herein from carrying out any construction over the suit property. The said order was extended from time to time.

4.2. Thereafter, being aggrieved, the respondents had preferred an appeal, being Misc. Appeal No. 04/2026, under Order XLIII Rule 1(r) of the CPC and along with the said appeal, the respondents had filed an application, being Misc (J) Case No. 01/2026, for staying the order dated 24.10.2025. Thereafter, vide impugned order, dated 29.01.2026, the learned appellate court has mechanically stayed the operation of the trial court's injunction order, observing that the stay was granted 'without going to the merits of the case'. Mr. Kabra also submits that the impugned order is arbitrary, cryptic and suffers from non-application of mind, as the learned appellate court stayed the injunction order without recording any finding in respect of the existence of a prima facie case, balance of convenience and irreparable injury and as such, the same caused prejudice to

the petitioners herein. Under such circumstances, Mr. Kabra has contended to allow this petition by interfering with the order of the learned appellate court.

5. Per-contra, Mr. Alam, learned counsel for the respondents has supported the impugned order and submits that the respondents herein have almost completed the constructions and at the fag end, the case was filed and ex-parte stay was taken by the petitioners. Mr. Alam further submits that unless the order passed by the learned trial court is stayed till disposal of the appeal, the respondents will suffer serious prejudice and under such circumstances, Mr. Alam has contended to allow this petition.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 29.01.2026.

7. The basic facts herein this case are not in dispute. The learned trial court, vide order dated 24.10.2025, had granted ex-parte injunction order, in Misc. (J) Case No. 958/2025, arising out of Title Suit No. 634/2025 and being aggrieved, the respondents herein had preferred one application against the said order, being Misc (J) Case No. 01/2026, along with an appeal, being Misc. Appeal No. 04/2026, wherein the learned appellate court, vide impugned order dated 29.01.2026, had stayed the order of the learned trial court passed on 24.10.2025, without going into the merit of the case till the appearance of the respondents.

8. It is settled in a catena of decisions of Hon'ble Supreme Court that reasons have virtually become as indispensable a component of decision making process. In the case of **Kranti Associates Private Limited and Another vs. Masood Ahmed Khan and Others**, reported in (2010) 9 SCC 496,

Hon'ble Supreme Court has held as under:-

“47. Summarising the above discussion, this Court holds:-

- (a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
- (b) A quasi-judicial authority must record reasons in support of its conclusions.
- (c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
- (d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
- (e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
- (g) Reasons facilitate the process of judicial review by superior courts.
- (h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.
- (i) Judicial or even quasi-judicial opinions these days

can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

- (j) Insistence on reason is a requirement for both judicial accountability and transparency.
- (k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.
- (l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.
- (m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor³².)
- (n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz, Torija v. Spain³³ EHRR, at 562 para 29 and Anya v. University of Oxford³⁴, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,
adequate and intelligent reasons must be given for

judicial decisions’.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of ‘due process’.”

9. In the instant case, admittedly, the learned appellate court neither assigned any reason nor gone into the merit of the case, while staying the operation of the order of injunction passed by the learned trial court. The presence or absence of three golden principles, i.e. prima-facie case, balance of convenience and irreparable loss, and also about the correctness of the finding so recorded by the learned trial court in respect of the said principles ought to have been discussed by the learned appellate court while staying an operation of the order. But, nothing has been done by the learned appellate court and while the impugned order is examined in the light of the proposition of law laid down in the case of **Kranti Associates Private Limited (supra)**, the same failed to withstand the legal scrutiny and as such, it requires interference of this Court.

10. Though, Mr. Alam, learned counsel for the respondents tried to convince this Court that the learned appellate court is required to assign no reason in staying the operation of the impugned order, this Court is unable to agree with the same in view of the proposition of law laid down in the case of **Kranti Associates Private Limited (supra)**.

11. In the result, this Court finds sufficient merit in this petition and accordingly, the same stands allowed at this motion stage itself. The impugned order dated 29.01.2026, stands set aside.

12. The matter stands remanded to the learned trial court to pass a fresh, reasoned order, after affording an opportunity of being heard to both the parties and thereafter, to dispose of the Misc. Appeal No. 04/2026 as soon as practicable.

13. The parties are directed to appear before the learned appellate court on 11.03.2026.

JUDGE

Comparing Assistant