

GAHC010033292026



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

I.A.(Civil)/508/2026

BINOD HAZARIKA
S/O LATE BHUBAN HAZARIKA
R/O KHARGULI
GUWAHATI-04
KAMRUP (M)
ASSAM.

VERSUS

AJIT DAS
S/O LATE SARASWATI CHARAN DAS
R/O UZAN BAZAR
LAMB ROAD
JUR PUKHURI PAR
GHY-01
KAMRUP (M)
GUWAHATI
ASSAM.

Advocate for : MR. S P ROY
Advocate for : MR. R K BHUYAN (FOR CAVEATOR) appearing for AJIT DAS

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 20.02.2026

1. Heard Mr. S.P. Roy, learned counsel for the applicant. Also heard Mr. R.K. Bhuyan, learned counsel for the opposite party.
2. This Interlocutory Application under Order 39 rules 1 and 2 of the CPC read with Section 151 of the CPC has been filed by the applicant in connection with the connected FAO No.12/2026, praying for grant of temporary injunction restraining the opposite party from changing the nature and character of the suit in any manner.
3. The learned counsel for the applicant has submitted that the applicant being in possession over a plot of land measuring 6 bighas 2 kathas and 19 lechas, which was the subject matter of the Title Suit No. 84/85, and was admittedly decreed in favour of the present respondent and some other persons.
4. The learned counsel for the applicant submits that the applicant was dispossessed from his 2 kathas land in execution of the decree passed in Title Suit No.84/85. He further submits that since the present applicant was not a party to the said suit, he preferred an application under Order 21 Rule 99 of the CPC before the Executing Court. However, his application was also dismissed by the Executing Court. Thereafter, he preferred an appeal against the order of the Executing Court dismissing his application under Order 21 Rule 99 of the CPC. The said appeal was registered as Title Appeal No.31/2018 before the Court of learned District Judge, Kamrup(M).
5. The learned counsel for the applicant further submits that the said appeal being filed belatedly beyond the period of limitation, an application for condoning the delay in preferring the said appeal was filed before the First Appellate Court. The said application is still pending before the First Appellate Court. However, he submits that during the pendency of the same application for condoning the delay, the defendant has started construction over the suit land and therefore, the present appellant preferred an application under Order 39 Rule 1 and 2 seeking temporary injunction against the defendants from the First Appellate Court. The said application was registered as Misc(J) Case No.7/2026, in which, the impugned order has been passed, which is being agitated by the present appellant in the connected FAO No.12/2026.
6. The learned counsel for the applicant has submitted that the First Appellate Court has refused to grant any interim relief to the present applicant without discussing the three golden principles, which are required to be discussed while granting or refusing the temporary injunction. He submits that this Interlocutory Application has been filed seeking temporary injunction because the defendant is contending with the construction over the suit land and have started digging the suit land for the purpose of construction. He also produced three photographs purportedly to be of the suit land in

support of his submissions.

7. On the other hand, the learned counsel for the opposite party has submitted that the First Appellate Court is yet to consider the application filed by the present petitioner seeking temporary injunction in Misc(J) No.7/2026. He submits that the First Appellate Court has only afforded opportunity to the Opposite party to file written objection and fixed a very short date i.e. on 24.02.2026 for objection and objection hearing. He also submits that the photographs produced by the learned counsel for the applicant does not show any construction over the suit land. Hence, he submits that this case is not of such urgency, where without giving opportunity to file objection any relief may be granted at this stage.

8. The learned counsel for the applicant submits that he may be allowed to file an additional affidavit to bring on record certain more photographs, which will bring the updated status of the suit premises.

9. On perusal of the photographs submitted by the learned counsel for the applicant, it does not appear that any construction activity is going on over the land, of which the photographs have been produced by the learned counsel and since the First Appellate Court in the seisin of the matter and fixed a very short date i.e. on 24.02.2026, this Court is inclined to grant an opportunity to both the applicant/petitioner i.e., to the petitioner to submit the photographs which he intends to submit and to the respondents to submit written objection on the next date fixed.

10. Accordingly, list this matter on 27.02.2026.

JUDGE

Comparing Assistant