

GAHC010038472026



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

Case No. : CRP(IO)/53/2026

BIKASH JAIN @ BIKASH KUMAR JAIN
(SVM DA MEMBERSHIP NO. L 125), SON OF SRI MAHABIR PRASAD JAIN,
RESIDENT OF COLE ROAD, NEW MARKET, P.O - DIBRUGARH, P.S. AND
DIST.- DIBRUGARH, ASSAM, PIN- 786001

VERSUS

SHREE VISHWANATH MARWARI DATABYA AUSHADHALAYA (SVM DA)
AND ANR
A SOCIETY REGISTERED UNDER THE SOCIETIES REGISTRATION ACT,
1860, HAVING ITS REGISTERED OFFICE AT ASSAM TRUNK ROAD, P.O -
DIBRUGARH, P.S. AND DIST.- DIBRUGARH, ASSAM, PIN- 786001

2:SHREE VISHWANATH MARWARI DATABYA AUSHADHALAYA
REPRESENTED BY ITS PRESIDENT/SECRETARY
ASSAM TRUNK ROAD
P.O - DIBRUGARH
P.S. AND DIST.- DIBRUGARH
ASSAM
PIN - 78600

Advocate for the Petitioner : MR. P MAHANTA, C SARMA, MS. P SAHARIA

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

25.02.2026

Heard Mr. P. Mahanta, learned counsel for the petitioner.

2. In this petition, under Article 227 of the Constitution of India, read with Section 115 of the Code of Civil Procedure, the petitioner has challenged the Order, dated 17.02.2026; passed by the learned Civil Judge (Jr. Div.) No. 2, Dibrugarh, in Misc. (J) Case No. 18/2026, in Title Suit No. 10/2026.

3. It is to be noted here that vide impugned Order, dated 17.02.2026, the learned Civil Judge (Jr. Div.) No. 2, Dibrugarh (hereinafter, learned Trial Court); had issued notice to the caveator/opposite party, upon the petition filed by the petitioner herein, under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, praying for granting ad-interim temporary injunction and fixed the matter on 05.03.2026, for service report and written objection.

4. Mr. Mahanta, learned counsel for the petitioner submits that the Annual General Meeting (AGM) of the respondent society is scheduled to be held on 01.03.2026, and that being so, fixing the matter on 05.03.2026, for service report and written objection, would frustrate the application filed by the petitioner under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure.

4.1 Mr. Mahanta, further submits that though, two Caveats have been filed under Section 148-A of the Code of Civil Procedure and the present petitioner is not a prospective petitioner, as projected in the said two Caveat petitions and as

such, the impugned order, dated 17.02.2026, is illegal and arbitrary and therefore, the same is liable to be set aside.

4.2 Mr. Mahanta also submits that since, the Annual General Meeting is scheduled to be held on 01.03.2026, he may be allowed to effect service of notice upon the Caveator by dasti mode, by tomorrow itself, i.e., 26.02.2026; and the learned Trial Court may be directed to consider the application filed by the petitioner under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, prior to 01.03.2026.

5. Having heard the submissions made by the learned counsel for the petitioner, this Court has carefully gone through the petition and the documents placed on record and also gone through the impugned Order, dated 17.02.2026.

6. It appears that two Caveats, being Misc. Caveat Nos. 2/2026 and 3/2026, under Section 148-A of the Code of Civil Procedure, have been filed before the learned Trial Court, by the respondents herein, i.e., Shree Vishwanath Marwari Databya Aushadhalaya (SVMDA); and Shree Vishwanath Marwari Databya Aushadhalaya, represented by its President/Secretary; and the present petitioner is not projected in the said two Caveats as the prospective petitioner.

7. However, in view of the two Caveats being filed, the learned Trial Court, vide impugned order, dated 17.02.2026, had issued notice to the Caveator, fixing the matter on 05.03.2026; but, the Annual General Meeting, as submitted by Mr. Mahanta and as demonstrated in the petition, is scheduled to be held on 01.03.2026, and if the matter is taken after that day, the petition filed by the petitioner would become infructuous.

8. In that view of the matter, this Court is inclined to dispose of this petition, by directing the petitioner herein to file an application before the learned Trial Court to prepone the date, before the Annual General Meeting, by effecting service upon the Caveator by dasti mode. And on such application being filed, after effecting service by dasti mode before the Caveator; the learned Trial Court shall consider the same in accordance with law.

9. To the extent indicated above, the impugned order is interfered with.

JUDGE

Comparing Assistant