

GAHC010060872026



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

Case No. : CRP(IO)/99/2026

DR. NIRAB CH. ADHIKARY AND 2 ORS
S/O SRI TARINI MOHAN ADHIKARY, R/O VILL.- KHUKCHI, P.O.- SAKTI
ASHRAM, DIST.- KOKRAJHAR, ASSAM AND PRESENTLY WORKING AT
IASST, PASCHIM BORAGAON, GARCHUK, P.O.- GUWAHATI, DIST.-
KAMRUP (M), ASSAM.

2: TAPAN GOSWAMI
S/O SRI BHUBAN CH. GOSWAMI
R/O WARD NO. 7
NALBARI
DIST- NALBARI
ASSAM AND P/R/A HOUSE NO. 61
BISHNUNAGAR
PANJABARI
GUWAHATI
P.O.- PANJABARI
DIST- KAMRUP (M)
ASSAM
PIN-781037

3: DHRUBAJYOTI GOGOI
S/O SRI JAGAT SINGH
R/O WARD NO. 13
SONARI
DIST- SIVASAGAR
ASSAM AND P/R/A LAKHIMI PATH
BELTOLA
P.O.- BELTOLA
DIST- KAMRUP (M)
ASSAM
PIN-78102

VERSUS

BIRESWAR RONGPI AND ANR
S/O PARIRAM RONGPI, R/O MIKIRPARA, CHAKARDOI, GUWAHATI, P.O.
AND P.S.- GARCHUK, DIST.- KAMRUP (M), ASSAM, PIN- 781035

2:LOHIT RONGPI
S/O SRI BHARAT RONGPI
R/O MIKIRPARA
CHAKARDOI
GUWAHATI
P.O. AND P.S.- GARCHUK
DIST.- KAMRUP (M)
ASSAM
PIN- 78103

Advocate for the Petitioner : DR AZIZ KHAN, MR. BIJOY SUBBA,MS. G BORA

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 25.03.2026

Heard Dr. A. Khan, learned counsel appearing for the petitioners.

2. By way of the present Civil Revision Petition under Article 227 of the Constitution of India, the petitioners have assailed the order dated 11.04.2025 passed by the learned Civil Judge (Senior Division) No. 1, Kamrup (M) in Misc. (J) Case No. 315/2025 arising out of Money Appeal No. 02/2025, whereby the operation of the judgment and decree dated 17.12.2024 passed in Money Suit No. 198/2015 has been stayed.

3. The case of the petitioners, in brief, is that the suit instituted by them for recovery of money stood decreed in their favour, and a decree was accordingly drawn on 08.01.2025 pursuant to the

judgment dated 17.12.2024. In execution thereof, the petitioners have already initiated proceedings under Order XXI of the Code of Civil Procedure, 1908, which are presently pending.

4. It is contended that, in the meantime, the respondents preferred an appeal and obtained an ex parte order of stay of the decree without issuance of notice to the petitioners, thereby necessitating the present revision petition.

5. Dr. A. Khan, learned counsel appearing for the petitioners, submits that the appellate Court, while granting stay of the judgment and decree, has failed to comply with the mandate of Order XLI Rule 5(3) of the Code of Civil Procedure, 1908, inasmuch as no reasons have been recorded demonstrating satisfaction of the conditions precedent for grant of stay.

6. Issue notice, returnable on 08.05.2026.

7. Having considered the submissions advanced in support of the prayer for interim relief and upon perusal of the impugned order, this Court finds that the power of the appellate Court to grant stay of execution of a decree stands circumscribed by the requirement of recording satisfaction regarding the existence of "sufficient cause," as elucidated by the Apex Court in ***Lifestyle Equities C.V. & Anr. v. Amazon Technologies Inc.***, reported in **2025 SCC OnLine SC 2153**. A bare perusal of the impugned order dated 11.04.2025, reveals that no reasons whatsoever have been assigned while granting the stay. The law, as laid down by the Apex Court, mandates that the appellate Court must examine:

- (i) whether substantial loss would result to the applicant in the absence of stay;
- (ii) whether the application has been made without unreasonable delay; and
- (iii) whether security has been furnished for due performance of the decree.

8. The relevant paragraph of the aforesaid judgment of the Apex Court reads as under:

“134. We summarize our final conclusion on the grant of benefit of stay of execution of a decree by an appellate court in term of Order XLI as under:-

(III) Order XLI Rule 5(3) of the CPC provides for satisfaction regarding sufficient cause as a pre-condition for granting benefit of stay of execution of decree, and it casts an obligation upon the appellate court to record its satisfaction for stay of execution such decree.

(IV) The power of the Appellate Court to order stay of execution of the decree is circumscribed and made subject to the existence of a "sufficient cause" in favour of the appellant being shown. In order to ascertain whether a "sufficient cause" exists for the grant of stay of execution of a decree under Order XLI of the CPC, the appellate court as per sub-rule (3) of Rule 5 is required to examines-

(i) Whether there will be substantial loss to the party applying for stay;

(ii) Whether the application has been made without unreasonable delay; and

(iii) Whether security has been given by the applicant for due performance of the decree.

(V) For the grant of stay of execution of the decree, the appellate court is required, after perusing the materials on record, to assign reasons for its satisfaction regarding the existence of a "sufficient cause". Such reasons should be cogent and adequate. The reasons assigned must indicate the necessity for the status quo prevailing on

the date of the decree and/or the date of making of the application for stay, to continue by granting stay, and not merely the reasons why stay should be granted.”

9. Viewed thus, the appellate Court is under an obligation to record cogent and adequate reasons reflecting its satisfaction regarding the existence of sufficient cause.

10. It also appears that the learned appellate Court granted stay of the decree ex parte and proceeded to dispose of the stay application without affording an opportunity of hearing to the decree-holder, i.e., the present petitioners. In such circumstances, this Court is of the prima facie view that the petitioners have made out a case for grant of interim relief.

11. Accordingly, pending disposal of the present revision petition, the operation of the impugned order dated 11.04.2025 passed by the learned Civil Judge (Senior Division) No. 1, Kamrup (M) in Misc. (J) Case No. 315/2025 arising out of Money Appeal No. 02/2025 shall remain stayed until further orders.

12. Steps for service of notice upon the respondents shall be taken by the petitioners by registered post with A/D, as well as by speed post, within a period of three working days from today.

13. List the matter accordingly.

JUDGE