

GAHC010063742025



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

Case No. : CRP/46/2025

SHREE SHREE SHIV RAM MANDIR
(PREVIOUSLY KNOWN AS BIHARI THAKURBARI), DHUBRI, WARD NO 3,
VIVEKANANDA ROAD, P.O AND P.S- DHUBRI, DIST- DHUBRI, ASSAM,
REPRESENTED BY ITS SECRETARY, SRI PRADIP MALLAH, AGED ABOUT
48 YEARS, S/O LATE DINANATH MALLAH, R/O WARD NO. 3, DHUBRI
TOWN, P.O. AND P.S.- DHUBRI, DIST- DHUBRI, ASSAM

VERSUS

PRADIP KUMAR ROY AND 4 ORS.
S/O- LATE LAKHAN PROSAD ROY, R/O WARD NO. 3, VIVEKANANDA
ROAD, DHUBRI TOWN, P.O. AND P.S.- DHUBRI, DIST- DHUBRI, ASSAM, PIN-
783301

2:SANJEET ROY
S/O- LATE LAKHAN PROSAD ROY
R/O WARD NO. 3
VIVEKANANDA ROAD
DHUBRI TOWN
P.O. AND P.S.- DHUBRI
DIST- DHUBRI
ASSAM
PIN-783301

3:JAGADISH KR. ROY
S/O- LATE LAKHAN PROSAD ROY
R/O WARD NO. 3
VIVEKANANDA ROAD
DHUBRI TOWN
P.O. AND P.S.- DHUBRI
DIST- DHUBRI
ASSAM

PIN-783301

4:SHOBHA ROY
S/O- LATE LAKHAN PROSAD ROY
R/O WARD NO. 3
VIVEKANANDA ROAD
DHUBRI TOWN
P.O. AND P.S.- DHUBRI
DIST- DHUBRI
ASSAM
PIN-783301

5:PUERNIMA KUMARI ROY
S/O- LATE LAKHAN PROSAD ROY
R/O WARD NO. 3
VIVEKANANDA ROAD
DHUBRI TOWN
P.O. AND P.S.- DHUBRI
DIST- DHUBRI
ASSAM
PIN-78330

For the Petitioner(s) : Mr. D.A. Kaiyum, Advocate

For the Respondent(s) : None appears

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 28.04.2025

Issue notice making it returnable on 02.06.2025.

2. The petitioner is directed to take steps upon the respondent Nos. 1 to 5 by way of Registered Post with A/D as well as through usual process within 2 (two) days.
3. In addition to that, the petitioner is also directed to take steps upon the respondent Nos. 1 to 5 by way of Dasti routed through the Registry

of this Court and file an affidavit of service on or before the next date.

4. Mr. D.A. Kaiyum, the learned counsel appearing on behalf of the petitioner submitted that the suit has been filed by the respondents herein as plaintiffs being Title Suit No. 173/2015 seeking declaration of right, title, interest as well as possession over the Schedule land. He submitted that the petitioner is in possession of the suit land and it would affect the rights of the petitioner over the suit land if a decree is passed and it is under such circumstances, an application was filed seeking impleadment in the said proceedings which was rejected vide the impugned order dated 04.01.2025.

5. This Court has duly perused the plaint as well as the application so filed by the petitioner before the learned Trial Court. The impugned order dated 04.01.2025 has also been duly perused.

6. This Court finds it relevant to take note of the judgment of the Supreme Court in the case of ***Rahul S. Shah Vs. Jinendra Kumar Gandhi and Others*** reported in ***(2021) 6 SCC 418*** wherein the Supreme Court in order to curb the delay in disposal of the suits have passed certain directions. Amongst the various directions, at paragraph No. 42, it was observed that in respect to a suit for delivery of possession, it is the duty of the Court to ascertain who is actually in possession of the suit property.

7. This Court has duly perused the reports which have been enclosed to the instant petition wherein it has been duly mentioned that the petitioner is in possession of a part of the suit property.

8. Taking into account the above, it is the opinion of this Court that the

petitioner has been able to make out a prima facie case for grant of stay of Title Suit No. 173/2015 pending before the learned Court of the Civil Judge (Junior Division) No. 1, Dhubri till the next date.

9. Accordingly, the further proceedings of Title Suit No. 173/2015 pending before the learned Court of the Civil Judge (Junior Division) No. 1, Dhubri is stayed till the next date.

10. List accordingly.

JUDGE

Comparing Assistant