

GAHC010085102026



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

**Case No. : I.A.(Civil)/1425/2026**

KASHEM ALI  
S/O LATE ABBAS ALI, R/O VILL- MIKIRATI HOW GAON, MOUZA-  
JAMUNAMUKH, P.O. AND P.S.- DOBOKA, DIST- HOJAI, ASSAM, PIN-782440

VERSUS

AMIR HUSSAIN  
S/O SULTAN ALI, R/O VILL- MIKIRATI HOW GAON, MOUZA-  
JAMUNAMUKH, P.O. AND P.S.- DOBOKA, DIST- HOJAI, ASSAM, PIN-782440

**Advocate for the Petitioner** : MR B DEORI, MR G BHARADWAJ(R1)

**Advocate for the Respondent** : MR H R A CHOUDHURY, MS. R CHOUDHURY,MS. B.  
HAZARIKA,MD. MEMON AHMED

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 27.05.2026**

Heard Mr. A.C. Sarma, learned senior counsel, assisted by Mr. G. Bharadwaj, learned counsel for the applicant. Also heard Mrs. R. Choudhury,

learned senior counsel, assisted by Ms. S.E. Murtaza learned counsel for the respondent.

2. The applicant herein is the respondent in the connected R.S.A. 1/2026, who was the plaintiff in the suit. The said TS No. 47/2009 was decreed in favor of the applicant, declaring his right, title, and interest and also for delivery of khas possession of the land by dismissing the counter-claim.

3. The appeal, being T.A. 1/2021, preferred against the judgment and decree dated 11.04.2019, was also dismissed and accordingly, the connected second appeal under Section 100 of the CPC was preferred.

4. The learned senior counsel for the applicant has submitted that in this interlocutory application, the applicant has annexed photographs of the part of the suit land where the respondents (appellants in R.S.A. 1/2026) are carrying out construction. It is submitted that this would change the nature and character of the suit land, and therefore, he prays for ad-interim injunction restraining the respondents (appellants in R.S.A. 1/2026) from carrying out the construction to change the nature and character of the suit land.

5. Issue notice on this interlocutory application, returnable on 17.06.2026, without requiring any fresh steps to be taken as the respondents are already appeared.

6. The learned senior counsel for the respondents (appellants in R.S.A. 1/2026) has submitted that as per her instructions, the respondents are ready willing to hand over the house and all structures, which is being constructed over the suit land in the event the appeal preferred by the respondents is dismissed. Therefore, she prays for and is granted 2(two) weeks' time to file an

undertaking to that effect, if so advised.

7. In the meanwhile, having noticed that the suit was decreed and the appeal preferred against the decree was dismissed, the Court is inclined to hold that the applicant has been able to make out a prima facie case in his favour because not only the suit has been decreed in applicant's favour, but the first appeal was also dismissed in his favour. The balance of convenience is also found in favour of the applicant for the same reason. Moreover, the applicant will suffer greater prejudice, loss and injury, if permanent constructions would come up on the suit land, which may change the nature of the suit land and there would be likely of third party interest being created by inducting tenants. The resultant injury cannot be compensated in terms of money.

8. Accordingly, the respondents in this interlocutory application (appellants in RSA 1/2026) are restrained in exercise of jurisdiction under Order XXXIX, Rules 1 and 2 CPC, from carrying out any further construction, whether permanent or temporary, over the suit land and/or from changing the nature and character of the suit land till the next date of listing.

9. The status quo as regards the constructions as on today i.e. 26.05.2026, shall be maintained till the next date of listing.

10. As the respondents are represented, service of a copy of this order upon the respondents is dispensed with. Accordingly, the learned instructing counsel for the respondents shall transmit a downloaded copy of this order to the respondents (appellants in R.S.A. No. 1/2026) at the mobile number of respondent no. 1, i.e. 9508716332, as available in the affidavit filed by the respondent in I.A.(Civil) No. 58/2026, and report compliance on the next date of

listing.

11. List on 17.06.2026.

**JUDGE**

**Comparing Assistant**