

GAHC010085802026



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

Case No. : CRP(IO)/166/2026

CHANDRA KANTA KALITA AND ANR
SON OF LATE HARMOHAN KALITA,
RESIDENT OF VILLAGE LACHITPUR, AMINGAON, POST OFFICE AND
POLICE STATION - AMINGAON, GUWAHATI - 781031, DISTRICT - KAMRUP,
ASSAM.

2: KESAB KALITA
SON OF CHANDRA KANTA KALITA
RESIDENT OF VILLAGE LACHITPUR
POST OFFICE AND POLICE STATION - AMINGAON
GUWAHATI - 78103
DISTRICT - KAMRUP
ASSAM

VERSUS

TAPAN KUMAR DAS AND 17 ORS
SON OF LATE GUNARAM DAS, RESIDENT OF VILLAGE LACHITPUR,
AMINGAON, LACHITPUR, AMINGAON,
POST OFFICE AND POLICE STATION - AMINGAON, GUWAHATI - 781031,
DISTRICT - KAMRUP, ASSAM.

2:NAREN DAS
SON OF LATE GUNARAM DAS
RESIDENT OF VILLAGE LACHITPUR
AMINGAON
LACHITPUR
AMINGAON
POST OFFICE AND POLICE STATION - AMINGAON
GUWAHATI - 781031
DISTRICT - KAMRUP
ASSAM.

3:NRIPEN KUMAR DAS
S/O LATE GUNARAM DAS
RESIDENT OF VILLAGE LACHITPUR
AMINGAON
LACHITPUR
AMINGAON
POST OFFICE AND POLICE STATION - AMINGAON
GUWAHATI - 781031
DISTRICT - KAMRUP
ASSAM.

4:MADHABI DAS
W/O LATE SRIKANTA DAS
RESIDENT OF VILLAGE LACHITPUR
AMINGAON
LACHITPUR
AMINGAON
POST OFFICE AND POLICE STATION - AMINGAON
GUWAHATI - 781031
DISTRICT - KAMRUP
ASSAM.

5:DIGANTA DAS
S/O LATE SRIKANTA DAS
RESIDENT OF VILLAGE LACHITPUR
AMINGAON
LACHITPUR
AMINGAON

POST OFFICE AND POLICE STATION - AMINGAON
GUWAHATI - 781031
DISTRICT - KAMRUP
ASSAM.

6:HEMANTA DAS
S/O LATE SRIKANTA DAS
RESIDENT OF VILLAGE LACHITPUR
AMINGAON
LACHITPUR
AMINGAON

POST OFFICE AND POLICE STATION - AMINGAON
GUWAHATI - 781031
DISTRICT - KAMRUP
ASSAM.

7:DOLY DAS
C/O CHANDRA SENAPATI

RESIDENT OF VILLAGE DOLIBARI
POST OFFICE - DADARA
POLICE STATION - SINGIMARI
DISTRICT - KAMRUP
ASSAM
PIN - 781104

8:BARUN DAS
SON OF GOBINDA SUD

RESIDENT OF RANGIA TOWN

POST OFFICE AND POLICE STATION - RANGIA

DISTRICT - KAMRUP
ASSAM
PIN - 781354.

9:SABITRI DAS
DAUGHTER OF ARUN DAS

RESIDENT OF MIRZA
AMTOL

POST OFFICE - MIRZA

POLICE STATION - PALASBARI

DISTRICT - KAMRUP
ASSAM
PIN - 871125.

10:MANJU DAS
DAUGHTER OF ARUN DAS
RESIDENT OF MIRZA
AMTOL

POST OFFICE - MIRZA

POLICE STATION - PALASBARI

DISTRICT - KAMRUP
ASSAM
PIN - 871125.

11:MIKTA DAS
DAUGHTER OF ARUN DAS
RESIDENT OF MIRZA

AMTOL

POST OFFICE - MIRZA

POLICE STATION - PALASBARI

DISTRICT - KAMRUP

ASSAM

PIN - 871125.

12:HAREN DAS

SON OF LATE SARAT DAS

RESIDENT OF VILLAGE LACHITPUR

AMINGAON

POST OFFICE AND POLICE STATION - AMINGAON

GUWAHATI - 781031

DISTRICT - KAMRUP

ASSAM

13:RAMESWAR DAS

SON OF LATE CHANARAM DAS

RESIDENT OF VILLAGE LACHITPUR

AMINGAON

POST OFFICE AND POLICE STATION - AMINGAON

GUWAHATI - 781031

DISTRICT - KAMRUP

ASSAM.

14:HAREN DAS

SON OF LATE GUNARAM DAS

RESIDENT OF VILLAGE LACHITPUR

AMINGAON

POST OFFICE AND POLICE STATION - AMINGAON

GUWAHATI - 781031

DISTRICT - KAMRUP

ASSAM.

15:RABINDRA KUMAR DAS

SON OF LATE GUNARAM DAS

RESIDENT OF VILLAGE LACHITPUR

AMINGAON

POST OFFICE AND POLICE STATION - AMINGAON

GUWAHATI - 781031

DISTRICT - KAMRUP

ASSAM.

16:KAMINI DAS
WIFE OF LATE NIRANJAN DAS
RESIDENT OF VILLAGE LACHITPUR
AMINGAON
POST OFFICE AND POLICE STATION - AMINGAON
GUWAHATI - 781031
DISTRICT - KAMRUP
ASSAM.

17:NABAJYOTI DAS
SON OF LATE NIRANJAN DAS
RESIDENT OF VILLAGE LACHITPUR
AMINGAON
POST OFFICE AND POLICE STATION - AMINGAON
GUWAHATI - 781031
DISTRICT - KAMRUP
ASSAM

18:AMR JYOTI DAS
SON OF LATE NIRANJAN DAS
RESIDENT OF VILLAGE LACHITPUR
AMINGAON
POST OFFICE AND POLICE STATION - AMINGAON
GUWAHATI - 781031
DISTRICT - KAMRUP
ASSA

Advocate for the Petitioner : MR. K N CHOUDHURY, MS. S MAHANTA,MR. M MAHANTA

Advocate for the Respondent : MS. A GOSWAMI, FOR CAVEATOR,MR. M BHAGABATI,MR. M P DAS

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

05.05.2026

Heard Mr. K.N. Choudhury, learned senior counsel assisted by Mr. M. Mahanta, learned counsel for the petitioners and Mr. M. Bhagawati, learned counsel for the respondents.

2. In this petition, under Article 227 of the Constitution of India read with Section 151 of the CPC, the petitioners have challenged the order dated 08.04.2026, passed by the learned Civil Judge (Junior Division), Kamrup (Amingaon) (trial court hereinafter), in Misc. (J) Case No. 27/2026, arising out of Title Suit No. 30/2024.

3. It is to be noted here that vide impugned order dated 08.04.2026, the learned trial court has directed the Officer In-Charge, Amingaon Police Outpost, to seal the entry gate of the suit land, in order to implement the status-quo order dated 12.10.2020 & 15.10.2020, passed in Misc. (J) Case No. 112/2020, arising out of Title Suit No. 104/2020, including the order dated 07.03.2026 & 27.03.2026.

4. Mr. Choudhury, learned counsel for the petitioners, submits that the petitioners are the absolute owners and possessors and also the pattadar of a land, measuring 2 bighs 3 kathas 5 lessas, out of 5 bighas 2 kathas 12 lessas, covered by Dag No. 4 of KP Patta No. 97 of Amingaon Revenue Village, under Sila Senduri Ghopa Mouza and that they are residing there over decades, in their pre-existing house.

4.1. Mr. Choudhury further submits that when the petitioners started construction of a RCC building over the aforementioned plot of land, the respondent Nos. 1 – 6 HAD filed a title suit, being Title Suit No. 104/2020, along with Misc. (J) Case No. 112/2020, before the learned Civil Judge, Kamrup (Amingaon), claiming to be owners of the entire plot of land, measuring 5 bighas 2 kathas 12 lessas, covered by Dag No. 4 of KP Patta No. 97. Thereafter, vide order dated 12.10.2020, the learned Civil Judge, Kamrup (Amingaon) had passed an order of status-quo, with regard to the suit land, which is still in operation.

4.2. Further submission of Mr. Choudhury is that after the status-quo order being passed, no further construction has been carried out by the petitioners. But, the respondent Nos. 1 – 6, on 08.04.2026, filed an application, before the learned trial court, for implementation of the court's order and prayed for closing down and also to seal the entry gate of the suit land. Then, the learned trial court, considering a report, submitted by the Circle Officer and police authority, passed the impugned order dated 08.04.2026 and directed the Officer In-Charge, Amingaon Police Outpost, to seal the entry gate of the alleged suit land, purportedly in order to implement the status-quo order without giving any opportunity to the petitioners to file counter or to rebut the allegation of violation of the injunction order.

4.3. Mr. Choudhury further submits that the said gate is the only gate by which the petitioners effected ingress or egress to the suit land, where they are residing and it causes severe hardship to them and that the application was filed under Order XXXIX Rule 2(A) and 7 read with Section 151 of the CPC and that the allegations basically relate to violation of the injunction order and while exercising the contempt of jurisdiction, the court is not entitled to pass any effective order in respect of suit property and on such count, the impugned order is illegal and arbitrary and liable to be interfered with.

5. Per-contra, Mr. Bhagawati, learned counsel for the respondents, vehemently opposed the petition. He has pointed it out that in spite of status-quo order being passed by the learned trial court, the petitioners herein has erected a wall and carrying out the construction of the RCC building, by making entry into the suit land by the said gate. He further submits that there are two gates, one which is directed by the learned trial court for closing and another gate is there, from where they can make ingress and egress to the suit land. Mr.

Bhagawati also submits that the impugned order was passed only to enforce the status-quo order and it suffers from no infirmity or illegally requiring any interference of this Court and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned counsel for both the parties, this Court has carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 08.04.2026.

7. The basic facts here in this case are not in dispute. The learned trial court has passed the order of status-quo preserving the suit property till disposal of the Title Suit No. 104/2020. Then, alleging violation of the said status-quo order, the respondents herein filed an application, under Order XXXIX Rule 2(A) and 7 read with Section 151 of the CPC.

8. It is to be noted here that the primary objection of Order XXXIX Rule 2(A) of the CPC is to enforce compliance with interim injunction granted under Order XXXIX Rule 1 & 2 of the CPC. When a party commits breach of such order, the court is empowered to take two specific actions, (i) it may order the attachment of the property of the person guilty of the breach and (ii) it may also order the detention of such person in civil prison for a term no exceeding tree months. These measures act as deterrent against disobedience, they do not inherently grant the court authority to adjudicate the title and grant substantive relief regarding the suit property itself in the manner of a final decree. The focused of the court remains on punishing the contemnor to uphold sanctity of its previous interim order.

9. In the instant case, since the title suit is already pending before the learned trial court, the order of closing the only gate, by which the petitioners have been effecting ingress and egress to the suit property, where they are

residing, that too in a proceeding under Order XXXIX Rule 2(A) of the CPC, which is primarily a coercive/punitive enforcement tool, like the civil contempt to compel compliance and not a provision for granting substantive relief, to the considered opinion of this Court is illegal and arbitrary. And in that view of the matter, the impugned order dated 08.04.2026, requires interference of this Court.

10. Though, Mr. Bhagawati, learned counsel for the respondents, has pointed it out that there exist two gates, one is in eastern side and another is in western side, yet the impugned order does not disclose said fact and even if another gate is there, the respondents herein cannot dictate the petitioners from which gate they should effect ingress and egress to their property and while the suit is already pending before the learned trial court.

11. In that view of the matter, this Court finds sufficient merit in this petition and accordingly, the same stands allowed. The impugned order, dated 08.04.2026, so far it relates to closing of the gate, stands set aside and quashed.

12. In terms of above, this petition stands disposed of at this motion stage itself leaving the parties to bear their own costs.

Comparing Assistant

JUDGE