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

Case No. : I.A.(Civil)/1810/2026

SUDIP PAITYA
S/O LATE SUDHANGSHU SEKHAR PAITYA
R/O HOUSE NO. 76
1ST LINK ROAD
P.O. AND P.S. SILCHAR
DIST- CACHAR
ASSAM.

VERSUS

PUNJAB NATIONAL BANK AND 3 ORS.
A STATUTORY BODY INCORPORATED AND GOVERNED UNDER THE
PROVISION OF BANKING REGULATIONS ACT
1948 AND ALSO CONTROLLED BY THE GOVERNMENT OF INDIA VIDE
BANKING NOTIFICATION ACT
1971 HAVING ITS HEAD OFFICE AT DELHI AND CARRYING BANKING
BUSINESS THROUGH VARIOUS BRANCHES AND IN PRACTICAL
A BRANCH AT FANCY BAZAR
GUWAHATI
ASSAM AND AT HOSPITAL ROAD
SILCHAR
REPRESENTED BY ITS MANAGING DIRECTOR

2:THE AUTHORIZED OFFICER
PUNJAB NATIONAL BANK
FANCY BAZAR
BRANCH (00130)
L.I.C. BUILDING
S.S. ROAD
GUWAHATI
PIN- 781001
ASSAM.

3:ASST. GENERAL MANAGER
PUNJAB NATIONAL BANK
FANCY BAZAR BRANCH (00130)
L.I.C. BUILDING
S.S. ROAD
GUWAHATI
PIN- 781001
ASSAM

4:THE AUTHORIZED OFFICER CUM CIRCLE HEAD
PUNJAB NATIONAL BANK
CIRCLE OFFICE
CENTRAL ROAD
SILCHAR
OPPOSITE TO VISHAL MART
P.O. AND P.S.- SILCHAR
DIST- CACHAR
ASSAM.

Advocate for : MR. D MOZUMDER
Advocate for : SC
PNB appearing for PUNJAB NATIONAL BANK AND 3 ORS.

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 03.06.2026

Heard Mr. D. Mozumdar, learned Senior Counsel, assisted by Mr. C. Gogoi, learned counsel for the applicant. Also heard Mr. A. Parvez, learned standing counsel, PNB, for the opposite parties.

2. This application, under Order 39 Rule 1 and 2, read with Section 151 of the CPC, is preferred by the applicant for granting temporary injunction restraining the defendants/opposite parties, their men, agents, workmen and associates from disturbing peaceful possession of the applicant over the suit property in any manner and restraining them from selling, alienating and

encumbering the suit property.

3. Let notice be issued to the opposite parties, returnable on 10.06.2026.

4. As Mr. Parvez, learned standing counsel, PNB appears and accepts notice on behalf of all the opposite parties, no formal notice is required to be issued to the opposite parties. However, extra requisite copies of the application be furnished to Mr. Parvez during the course of the day.

5. Mr. Mozumdar, learned Senior Counsel for the applicant submits that the applicant had filed one title suit, being Title Suit No. 163/2022, for a decree, declaring his right, title and interest over the land described in the schedule and that the said suit land was not mortgaged to the Bank, and also for declaring that they have no right or authority whatsoever to affix any banner with remarks that the suit property belongs to the defendant Bank, and for permanent/temporary injunction with cost of the suit. Mr. Mozumdar also submits that along with the title suit, the applicant had also preferred an application for granting temporary injunction under Order XXXIX Rule 1 and 2, read with Section 151 of the CPC, upon which Misc. (J) Case No. 205/2022, was registered and thereafter, hearing the parties, the learned Civil Judge (Senior Division) No. 1, Cachar, Silchar ('trial Court', for short) has dismissed the application, vide impugned order dated 05.05.2026, on the ground that the property in question is currently pending for adjudication before the Debts Recovery Tribunal, Guwahati.

5.1. Drawing attention of this Court to the written statement, which is annexed with the connected FAO, Mr. Mozumdar submits that a plot of land measuring 3 kathas 18 gondas of which the applicant is the absolute owner, was never mortgaged to the Bank, though the adjacent plot of land measuring 8 kathas 18

gondas was mortgaged to the Bank, and as such, the opposite party/Bank cannot proceed against the 3 kathas 18 gondas of land, covered by 2nd RS Patta No. 27, Dag No. 113, and the said plot of land is not subject matter of any suit pending before the Debts Recovery Tribunal, as observed by the learned trial Court. Mr. Mozumdar further submits that the applicant has a prima facie case and the balance of convenience is also in his favour, and that he will suffer irreparable loss in the event of alienating or mortgaging the said plot of land by the opposite party/Bank, and as such, the impugned order dated 05.05.2026, rejecting the injunction petition filed by the applicant, is liable to be interfered with. Mr. Mozumdar also submits that till disposal of the connected FAO, temporary injunction may be granted to protect the suit property.

6. Per contra, Mr. Parvez, learned standing counsel, PNB, for the opposite parties has opposed the application. He submits that the applicant has obtained loan from the Bank mortgaging the plot of land measuring 8 kathas 18 gondas and the structure standing thereon by depositing the purchase deed No. 4133, dated 22.07.2015/27.07.2015 and that on account of the loan being not paid by the applicant, the opposite party/Bank has obtained a recovery certificate from the Debts Recovery Tribunal to recover the amount. He further submits that though the plot of land, measuring 3 kathas 18 gondas has not been mortgaged to the Bank, the Bank can proceed against the plot of land under the Recovery of Debts and Bankruptcy Act, 1993, as the loan amount cannot be satisfied by selling the 8 kathas 18 gondas of land and structures thereon.

7. However, to a pointed query of this Court, Mr. Parvez, learned standing counsel, PNB submits that such a stand has not been taken in the written statement and Mr. Mozumdar, learned Senior Counsel for the applicant has rightly pointed this out at the time of hearing.

8. From the aforementioned contentions, it becomes apparent that the plot of land measuring 3 kathas 18 gondas, covered by 2nd RS Patta No. 27, Dag No. 113, has not been mortgaged by the applicant to the opposite party/Bank. And despite, the opposite party/Bank has arbitrarily affixed with possession notice over the said plot of land.

9. Thus, a strong prima facie case appears to be made out in favour of the applicant herein and the balance of convenience also appears to be in his favour, and unless the opposite parties are restrained from alienating or selling or mortgaging the aforesaid plot of land, the applicant herein will suffer irreparable loss.

10. And under such circumstances, this Court is inclined to direct the parties to maintain status quo as on today, till returnable date.

11. List the matter on 10.06.2026.

JUDGE

Comparing Assistant