

GAHC010107592026



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

Case No. : I.A.(Civil)/1820/2026 in FAO/34/2026

PEOPLES ARMWRESTLING FEDERATION OF INDIA
HAVING ITS REGISTERED OFFICE AT FLAT NO. A/605
6TH FLOOR
PIONEER HERITAGE RESIDENCY-III PLOT I
DAULAT NAGAR
SANTACRUZ WEST
MUMBAI
MAHARASHTRA - 400 054
INDIA REPRESENTED BY DR. PRAVEEN KUMAR SINGH JADON
GENERAL SECRETARY

VERSUS

RYAN THOMAS BOWEN
S/O MR. WAYNE BOWEN
A PERMANENT RESIDENT OF 8
BROADFORD STREET
SPRING MOUNTAINS- 4300 AND PRESENTLY RESIDING AT HOUSE NO. 16
HOCKEY STADIUM ROAD
SURUJMUKHI PATH
SAWKUCHI
GUWAHATI
ASSAM

Advocate for : MR M GOSWAMI
Advocate for : appearing for RYAN THOMAS BOWEN

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

03.06.2026

Heard Mr. M. Goswami, learned Senior counsel assisted by Mr. R. Singha, learned counsel for the applicant.

This interlocutory application under Order XLI Rule 5 read with Section 151 of the Code of Civil Procedure is preferred by the applicant for staying operation of the impugned order, dated 13.05.2026, passed by the learned Civil Judge (Sr. Division) No.1, Kamrup(M), Guwahati, in Misc.(J) Case No.531/2026, arising out of Title Suit No.298/2026.

Mr. Goswami submits that the applicant herein as appellant has preferred one FAO, being FAO No.34/2026, which has been admitted by this Court and notice has been issued and till disposal of the said FAO No.34/2026, there is a requirement of staying operation of the impugned order dated 13.05.2026, whereby the learned Trial Court has granted ad-interim injunction, suspending the operation and implementation of the directives, in the letter dated 21.09.2025, and the official intimation dated 24.04.2026, and further directed to the applicant herein refrain from acting upon the same till the next date.

Mr. Goswami has pointed it out that on three counts the impugned order is being challenged in the FAO. *Firstly*, the provision of Order XXXIX Rule 3 has not been followed by the learned Trial Court while granting the ad-interim injunction, though the said provision is mandatory in nature and this proposition is affirmed by Hon'ble Supreme Court in the case of **Shiv Kumar Chadha v.**

Municipal Corporation of Delhi and others, reported in (1993) 3 SCC 161 and the said decision has subsequently been followed in the case of **Time City Infrastructure and Housing Limited, Lucknow v. State of U.P. and others**, reported in 2025 SCC OnLine SC 1674, wherein it has been held that Rule 3 of Order XXXIX is mandatory and if a statute requires a thing to be done in a particular manner, the same has to be done in that manner only, not in other manner, as held in the case of **Taylor v. Taylor**, reported in (1875) 1 Ch D 426 and also in the case of **Nazir Ahmed v. Emperor**, reported in AIR 1936 PC 253 (2). *Secondly*, the parent order has not been challenged by the opposite party before the learned Trial Court and what is being challenged are the subsequent orders. *Thirdly*, Mr. Goswami submits that the communication being challenged is of dated 21.09.2025, and the official intimation dated 24.04.2026 and as such, there is acquiescence on the part of the opposite party, and in view of the decision of Hon'ble Supreme Court in the case of **Morgan Stanley Mutual Fund v. Kartick Das**, reported in (1994) 4 SCC 225, if acquiescence is proved, then the Court cannot grant the ad-interim injunction. Under the aforementioned facts and circumstances, Mr. Goswami submits that at this stage notice may be issued to the opposite party and till returnable date, the impugned order may be stayed.

Having heard the submission of learned counsel for the applicant, this Court has carefully gone through the application and the documents placed on record and also perused the impugned order dated 13.05.2026, so passed by the learned Trial Court.

Let notice be issued to the opposite party, returnable on 13.07.2026.

Step be taken by speed post and also by usual process within a week from

today.

Further, from the submission of Mr. Goswami and from the documents placed on record, it appears that while passing the impugned order, dated 13.05.2026, the learned Trial Court has not at all considered the mandatory provision of Rule 3 of Order XXXIX CPC, as no notice was issued to the applicant herein and also no reason is recorded for granting such ex-parte ad-interim injunction without notice as required by proviso to Rule 3. Further, it appears that the parent order has not been challenged in the Title Suit No.298/2026. What is being challenged is the directive of the letter dated 21.09.2025 and the official intimation dated 24.04.2026. Further, it appears that while the directive was issued in the letter dated 21.09.2025, and the official intimation dated 24.04.2026 was issued, there is considerable delay which demonstrate that there is acquiescence on the part of the respondent/opposite party herein.

Notably, while dealing with the principle of granting ex-parte injunction in the case of **Morgan Stanley Mutual Fund (supra)**, Hon'ble Supreme Court in paragraph No.36 held as under:-

"36. As a principle, ex parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the court in the grant of ex parte injunction are-

- (a) whether irreparable or serious mischief will ensue to the plaintiff;
- (b) whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve;
- (c) the court will also consider the time at which the plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented;
- (d) the court will consider whether the plaintiff had acquiesced for sometime and in such circumstances it will not grant ex parte injunction;

- (e) the court would expect a party applying for ex parte injunction to show utmost good faith in making the application.
- (f) even if granted, the ex parte injunction would be for a limited period of time.
- (g) General principles like prima facie case balance of convenience and irreparable loss would also be considered by the court."

Thus, there appears to be substance in the submission of Mr. Goswami, learned Senior Counsel for the applicant and the same requires further consideration. At this stage, in view of the given factual and legal matrix and also in view of demonstration of a strong prima facie case by the applicant in its favour, operation of the impugned order dated 13.05.2026, passed by the learned Trial Court, stands stayed till returnable dated.

List the matter on 13.07.2026.

Sd/- Robin Phukan
JUDGE

Comparing Assistant