

GAHC010109152026



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

Case No. : CRP(IO)/203/2026

SUBHAS SHARMA AND ANR
S/O RAMANAND SHARMA, R/O BHETEPARA, SUGANDHI PATH, P.S-
HATIGOAN, GUWAHATI, DIST- KAMRUP (M), ASSAM

2: RAM NARAYAN BHAGAT
S/O GANGA BHAGAT
R/O HOUSE NO. 44
GAROKUCHI PATH
BELTOLA BAZAR
P.O- BELTOLA
P.S- DISPUR
GUWAHATI
DIST- KAMRUP (M)
ASSA

VERSUS

MD. MUSTAKUDDIN AHMED AND 2 ORS.
SON OF LATE MINHAZUDDIN AHMED, RESIDENT OF MASJID ROAD,
SANTIPUR, P.O. AND P.S.- BHARALUMUKH, DISTRICT - KAMRUP (M),
ASSAM, PIN - 781009.

2:GAUTAM BORA
SON OF SRI TULEN BORA
RESIDENT OF POPULAR MARKET
LALMATI
NEAR AXOM MOTORS
P.O. AND P.S.- BASISTHA
GUWAHATI- 781029
KAMRUP (M)
ASSAM.

3:DHARAM PRAKASH SHAH
SON OF BHRIGU NATH SHAH

RESIDENT OF HOUSE NO. 45
POPULAR MARKET
LALMATI
GUWAHATI - 781029

Advocate for the Petitioner : MR. SAILENDRA DEKA, MS. F L MIZO,MR JITENDRA DAS

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 01.06.2026

Heard Mr. S. Deka, learned counsel for the petitioners.

2. By assailing the order dated 29.05.2026, passed by learned Civil Judge (Senior Division) No.2, Kamrup(M), Guwahati, in Title Execution No. 42/2025, the present application has been filed under Article 227 of the Constitution of India.

3. The case of the petitioner is that the compromise decree dated 14.06.2025, passed by learned Civil Judge (Senior Division) No.2, Kamrup (M), Guwahati, in T.S. No.31/2025 is fraudulent and accordingly, the petitioners, who are the third parties to the said T.S. No.31/2025, have filed a separate suit which was registered as T.S. No.340/2026, which is pending for disposal before the learned Civil Judge (Senior Division) No.3, Kamrup (M), Guwahati. The 2 (two) plot of land in respect of which decree was passed in T.S. No.31/2025 being Schedule-A and Schedule-B are as follows:-

Schedule-A

A plot of land measuring 17.18 lechas along with Assam Type House and shops covered by Dag No.715 of K.P.Patta No.1986 of Village-Borsajai under Mouza-Beltola

of Dispur Revenue Circle in the district of Kamrup(M) and bounded by

North:Land of Dag No.714

South:Road

East:Land of Dag No.716

West:Land of Dag No.693

Schedule-B

A plot of land measuring 18.23 lechas along with Assam Type House and shops covered by Dag No.2251 of K.P.Patta No.1986 of Village-Borsajai under Mouza-Beltola of Dispur Revenue Circle in the district of Kamrup(M) and bounded by

North:Road

South:Land of Dag No.2246

East:Land of Dag No.2182

West:Land of Dag No.2181

4. The 2 (two) plots of land being Schedule-A and Schedule-B for which T.S. No.340/2026, was filed are as follows:

Schedule 'A' Land

*A plot of land measuring 0.48 ARE (13*40 ft.) covered by Dag No.714 of K.P.Patta No.442(N), class of land-1st Basti, situated at (Bishnu Rabha Path), Revenue Village-Barsajai, Mouza-Beltola under Dispur Revenue Circle, District-Kamrup(M), Assam, which is bounded by as follows:*

North-residence of Kastoram Daimari

South-Bishnu Rabha Path

East-Shop of Narayan Bhagat/plaintiff No.2

West-Shop and land of Kirank Boro @ Daimari

Schedule 'B' Land

A plot of land measuring 5Lechas (0.67 ARE) covered by Dag No.714 of K.P.Patta No.442(O)/3763(N), class of land-1st Basti, situated at (Bishnu Rabha Path), Revenue Village-Barsajai, Mouza-Beltola under Dispur Revenue Circle, District-Kamrup(M), Assam, which is bounded by as follows:

North-Vendor's own residence

South-Ghoramara Road

East-Land of Rupeswar Boro

West-Vendor's shop room

5. Accordingly, it is submitted that the case of the petitioners is that there is no land of the respondent no.1 within the land described in the Schedule to the plaint of T.S. No. 340/2026 and accordingly, by the fraudulent decree passed in T.S.31/2025, attempt could be made to execute the said decree in the land of the petitioners. It is submitted that the learned Civil Judge (Senior Division) No.3, Kamrup (M), Guwahati, had granted *ad-interim* injunction under Order XXXIX Rules 1 and 2 read with Section 151 CPC on 27.05.2026, not to disturb possession of the petitioners over the Schedule-A and Schedule-B land which is described in T.S. No.340/2026 and to disposses them therefrom.

6. It is submitted that a copy of the said order was presented before the learned Civil Judge (Senior Division) No.2, Kamrup (M), Guwahati in T.Ex. No.42/2025. However, the said learned court by order dated 29.05.2026, rejected the said application and accordingly, this application has been filed.

7. Issue notice returnable on 22.06.2026.

8. The petitioner shall take steps within 2(two) days for service of notice on the respondent by speed post with A/D as well as by usual process to be served through the jurisdictional Civil Court.

9. The Court is disinclined to stay the execution of decree passed in T.S. No.31/2025. But at the same time the Civil Nazir deputed for the execution of the decree dated 14.06.2025, passed in T.S. No.31/2025, by the Court of learned Civil Judge (Senior Division) No. 2, Kamrup(M), Guwahati, is directed to take into consideration the order dated 27.05.2026, passed by the

learned Civil Judge (Senior Division) No. 3, Kamrup (M), Guwahati in Misc.(J) Case No.623/2026, so as to prevent the execution of the decree passed in T.S. No.31/2025 over the land which is covered by Schedule-A and Schedule-B of T.S. No.340/2026, which are extracted hereinbefore.

10. The petitioner shall produce a certified copy of this order before the learned learned Civil Judge (Senior Division) No.2, Kamrup (M), Guwahati as well as before the Nazir under the District Judiciary, Kamrup (M) at Guwahati.

11. It is made clear that if the decretal land falls outside the suit land prescribed in Schedule-A and Schedule-B of T.S. No.340/2026, this order shall not be bar for the execution of the decree in terms of the decree dated 14.06.2025, passed by the learned Civil Judge (Senior Division) No. 2, Kamrup(M), Guwahati in T.S. No.31/2025.

12. List on 22.06.2026.

JUDGE

Comparing Assistant