

GAHC010131572025



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

Case No. : CRP/83/2025

PURVOTTAR SIMNTA RAILWAY KARMACHARI SANGH (PSRKS)
A REGISTERED TRADE UNION UNDER THE TRADE UNIONS ACT , 1926
BEARING REGISTRATION NO 721/1971 HAVING ITS REGISTERED OFFICE
AT QTR NO 136/B W W COLONY PANDU MALIGAON KAMRUP GUWAHATI
12 ASSAM REP BY ITS GENERAL SECRETARY MR PAULUSH MUSHAHARY

2: ANITA SINGH
PRESIDENT OF PURVOTTAR SIMANTA RAILWAY KARMACHARI SANGH
(PSRKS) R/O QTR NO 136/B W W COLONY PANDU MALIGAON KAMRUP
GUWAHATI 12 ASSAM

3: PAULUSH MUSHAHARY
GENERAL SECRETARY OF PURVOTTAR SIMANTA RAILWAY
KARMACHARI SANGH (PSRKS) R/O QTR NO 136/B W W COLONY PANDU
MALIGAON KAMRUP GUWAHATI 12 ASSA

VERSUS

JINTU HAZARIKIA
S/O LT PRAADIP HAZARIKA CLAIMING TO BE PRESEDENT OF
PURVOTTAR SIMANTA RAILWAY KARMACHARI SANGH (PSRKS) R/O
LAKHRA NEAR REGIONAL COLLEGE OF HEALTH SCIENCE PIN 781040
DIST KAMRUP METRO ASSAM

2:HARISH BHUYAN
S/O LT SURENDRA NATH BHUYAN CLAIMING TO BE SECRETARY
PURVOTTAR SIMANTA RAILWAY KARMACHARI SANGH (PSRKS) R/O
PUBINXARAPUR MIKIRGHULI WEST BORAGAON MALIGAON GUWAHATI
781011 DIST KAMRUP METRO ASSA

Advocate for the Petitioner : MR. R ALI, MR M BORO

Advocate for the Respondent : FOR CAVEATOR, MR. R SARMA,MR. B SARMA,MR. J K ROY

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : **18.12.2025**

1. Heard Mr. R. Ali, the learned counsel appearing for the petitioner. Also heard Mr. R. Sarma, the learned counsel for the respondent.
2. Though, the learned counsel for the respondent had raised the plea of maintainability of the instant application under Article 227 of the Constitution of India challenging the order of the Appellate Court passed under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908. However, he has now fairly considered that the case of ***Surya Dev Rai Vs. Ram Chander Rai and Others*** reported in ***(2003) 6 SCC 675*** has laid to rest this issue. He further submits that the Apex Court in the ***Radhey Shyam & Anr. Vs. Chhabi Nath & Ors.*** reported in ***(2009) 5 SCC 616*** has not disturbed the finding as regards maintainability of an application under Article 227 of Constitution of India putting to challenge an order passed by the Appellate Court under Order 43 Rule1 (r) of the Code of Civil Procedure, 1908.
3. In view of the fair submissions made by the learned counsel for the respondent as well as the submissions of the learned counsel for the petitioner the issue of maintainability of the instant Civil Revision under Article 227 of the Constitution of India is put to rest.
4. It is hereby held that in view of the observations made by the Apex Court in the case of ***Surya Dev Rai Vs. Ram Chander Rai (Supra)***, an application under Article 227 of the Constitution of India challenging the order of an Appellate Court passed under Order 43 Rule 1

(r) of the Code of Civil Procedure, 1908 is maintainable.

5. The learned counsel for the respondent submits that since this court is yet to issue notice in this case, the respondent may be granted an opportunity of filing a written objection in this Civil Revision Petition.

6. On the other hand, the learned counsel for the petitioner has objected to further adjournment in this case on the ground that the respondent has appeared in this case as a caveator on the first date itself in the month of June 2025. However, he has never prayed for filing of any written objection, rather, he had intentionally raised the issue of maintainability only with a view to delay the disposal of the present Civil Revision Petition.

7. He further submits that the respondents are illegally using the name of the petitioners' association taking advantage of the fact that the First Appellate Court has declined to grant any temporary injunction as sought for by the petitioner. He, therefore, submits that considering the urgency, the matter may be disposed of today itself.

8. I have considered the submissions made by the learned counsel for both sides.

9. On perusal of the records, it appears that the respondent as caveator has appeared in this case on the very first day of listing of this case, however, he has not filed any written objection yet.

10. This Court is of the considered opinion that considering the facts and circumstances of this case in its entirety one opportunity of filing written objection to the respondent may be granted.

11. Accordingly, the respondent side is allowed to file written objection on the next date fixed i.e., on 09.01.2026.

12. The respondent shall furnish the copy of written objection to the learned counsel for the petitioner well in advance before filing the same in the Court.

13. Let this matter be listed again on 09.01.2026.

JUDGE

Comparing Assistant