



2026:GAU-AS:5550

IN THE GAUHATI HIGH COURT
HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

CRP/83/2025

1. 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 represented 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 Assam

.....Petitioners

-Versus-

1. Jitu Hazarikia
S/O Lt Praadip Hazarika,
claiming to be President of Purvottar Simanta Railway Karmachari Sangh (PSRKS)

R/O Lakhra Near Regional College of Health
Science Pin 781040
District 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
District Kamrup Metro Assam

.....Respondents

For Petitioners	:	Mr. R. Ali, Advocate
For Respondents	:	Mr. R. Sarma, Advocate
Date of Judgment		09.01.2026
Reserved		
Date of Judgment	:	21.04.2026

**BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
JUDGMENT**

1. Heard Mr. R. Ali, the learned counsel for the petitioners. Also heard Mr. R. Sarma, the learned counsel for the respondents.

2. This application under Article 227 of the Constitution of India has been filed by the petitioners, namely, (1) Purvottar Simnta Railway Karmachari Sangh (PSRKS) represented by its General Secretary, Mr. Paulush Mushahary, (2) Ms. Anita Singh, and (3) Paulush Mushahary, impugning the judgment and order dated 28.05.2025, passed by the Court of the learned Additional District Judge No. 3, Kamrup (Metro) in Miscellaneous Appeal No. 1/2025, whereby, the First Appellate Court set aside the order dated

17.12.2024 passed by the Court of the learned Civil Judge (Senior Division) No. 1, Kamrup (Metro) in Misc. (J) Case No. 11/2024.

3. By the order dated 17.12.2024, the Trial Court had granted temporary injunction in favour of the present petitioners, restraining the present respondents from engaging in activities under the name and banner of the petitioner No.1, Trade Union until resolution of the dispute pending in Title Suit No. 633/2024. By the order impugned in this Civil Revision Petition, the aforesaid order of the Trial Court has been set aside and vacated.

4. The facts relevant for consideration of the instant Civil Revision Petition, in brief, are that the present petitioner No.1, namely, Purvottar Simnta Railway Karmachari Sangh (PSRKS) is a Trade Union registered under Trade Unions Act, 1926 having registration No. 721/1971. The petitioner No. 2 Ms. Anita Singh is the President of said Trade Union, whereas the petitioner No.3, namely, Mr. Paulush Mushahary is the General Secretary of the aforesaid Trade Union. The said petitioners have filed a Title Suit bearing T.S. No. 633/2024 before the Court of the learned Civil Judge (Senior Division) No. 1, Kamrup (Metro) against the present respondents namely, (1) Shri Jitu Hazarika, (2) Shri. Harish Bhuyan.

5. In the plaint of the aforesaid Title Suit, it has been pleaded by the present petitioners that the petitioner No.1 is one of the independent zonal union of the employees of North East Frontier Railway and it has its own constitution to fulfill aims and objectives mentioned therein. It was further pleaded by the petitioners in their

plaint that initially the petitioner No. 1 Union got its affiliation under "Bharatiya Railway Mazdoor Sangha (BRMS).

6. It was further pleaded in the plaint that zonal unions like the petitioner No.1 are independent bodies as the federations under which they get their affiliation cannot interfere in the internal matters of the zonal unions. However, it has been alleged that since last part of year 2019, some authorities of Bharatiya Railway Mazdoor Sangha (BRMS), started interfering with the internal matters of the petitioner No.1 Union. Accordingly, the Executive Committee of petitioner No.1 Union took decision on 14.06.2020 to withdraw its affiliation from Bharatiya Railway Mazdoor Sangha. The said decision was conveyed to the Bharatiya Railway Mazdoor Sangha on 16.06.2020 by way of sending a letter to it by the petitioner No.1 Union. After withdrawal of affiliation from Bharatiya Railway Mazdoor Sangha, the petitioner's Union affiliated itself under Bharatiya Janta Mazdoor Sangha, (BJMS). To this effect, the president of BJMS, by his letter No. BJMS/NS/Affiliation/8 dated 14.08.2021, declared acceptance of affiliation of petitioner No. 1 Union with Bharatiya Janta Mazdoor Sangha, (BJMS).

7. It was also pleaded that on 27.09.2021, after getting new affiliation under Bharatiya Janta Mazdoor Sangha, a meeting was held in the auditorium of Silpagram, Guwahati to form a new Executive Committee of the petitioner No.1 Union and in that meeting, a new Executive Committee of the petitioner's Union with petitioner No. 2 as its President and petitioner No.3 was constituted as its General Secretary. Later on, as per the decision of the

Executive Committee on 08.09.2024, the petitioner No. 3 took over the post of General Secretary of the petitioner No.1.

8. It is further pleaded in the plaint that the present respondent No. 1 is a retired employee of the railways and does not have a right even to be eligible as a Member of the petitioner No. 1 Union. However, Respondent No.1 started claiming himself to be the President of the petitioner No. 1 Union and Respondent No. 2 in collusion with the Respondent No.1 started claiming himself as the General Secretary of the petitioner No.1 Union. The petitioners immediately informed about the said illegal activities of the respondents to the Registrar of the Trade Union, Assam, by its letter dated 06.09.2024 and also lodged an FIR with the Officer-in-Charge of Jalukbari Police Station on 03.11.2024. However, the Registrar of the Trade Union, Assam, by its letter dated 23.10.2024 advised the petitioners to approach a competent civil court to resolve its dispute.

9. Accordingly, the petitioners approached the Court of the learned Civil Judge (Senior Division) No. 1, Kamrup (Metro) and filed the aforesaid Title Suit No. 633/2024. In the said suit, the present petitioners prayed for a declaratory relief against the present respondents to the effect that the respondents do not have any right to use the banner of the petitioner No. 1 Union. A declaration was also sought for that representation of respondents as General Secretary and President of Petitioner No. 1 Union is illegal and unlawful. A permanent injunction was also sought for against the present respondents from using the name and banner of the Petitioner No.1 Union along with the aforesaid claim in the title

suit, the present petitioners also filed an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 seeking a temporary injunction against the present respondents for restraining them from using the name and banner of the petitioner No.1 Union during the pendency of the Title Suit No. 633/2024.

10. The present respondents appeared in the aforesaid title suit and filed their written objection against the prayer of temporary injunction in Misc. (J) Case No. 1111/2024. However, by order dated 17.12.2024 passed in Misc. (J) Case No. 1111/2024, the Trial Court granted the temporary injunction against the present respondent restraining from engaging in any activities under the name and banner of the petitioner No.1 Union till the Court resolves the dispute between the parties in the Title Suit No. 633/2024.

11. On being aggrieved by the aforesaid order, the present respondent preferred an appeal under Order 43 Rule 1 (r) of the Code of Civil Procedure, 1908 before the Court of learned Additional District Judge (FTC) No. 3, Kamrup (Metro), Guwahati. The said appeal was registered as Misc. Appeal No. 1/2025. Ultimately, by order dated 28.05.2025 passed in the aforesaid Misc. Appeal, the First Appellate Court had set aside the order of the Trial Court passed on 17.12.2024 in Misc. (J) Case No. 1111/2024. The aforesaid order passed by Court of the learned Additional District Judge (FTC) No. 3, Kamrup (Metro), Guwahati has been impugned before this Court in the instant Revision Petition.

12. Mr. R. Ali, the learned counsel for the petitioners has submitted that the impugned order passed by the First Appellate

Court is liable to be set aside on the ground that it interfered with the order of the Trial Court granting temporary injunction in favor of the present petitioners without coming to any conclusion that the Trial Court had exercised its jurisdiction with arbitrarily, capriciously or perversely. He submits that the First Appellate Court without finding any perversity in the order passed by the Trial Court, had illegally set it aside.

13. The learned counsel for the petitioners also submits that the Trial Court, while granting the temporary injunction in favor of the present petitioners, had relied on the documents produced by the present petitioners and only after consideration of the documents and materials produced by the present petitioners before the Trial Court, the temporary injunction was granted. However, the First Appellate Court came to a wrong finding that the Trial Court came to the conclusion of having a *prima facie* case in favor of the present petitioners basing on the case of the present respondents. He submits that the observations made by the First Appellate Court that the ingredients of three golden principles for grant of temporary injunction are not present in the present case are wrong and perverse, in as much as the respondent No. 1 who is claiming to be the President of the petitioner No. 1 Union, is a retired employee and under the constitution of the petitioner No.1 Union, he cannot hold the post of any office bearer of the petitioner No. 1 Union.

14. The learned counsel for the petitioners further submits that the petitioners, while praying for grant of temporary injunction, have provided all necessary documents like registration certificate of

the petitioner No. 1 Union, original PAN Card, the annual audit returns and on the basis of the said documents, the Trial Court granted temporary injunction in the favor of the petitioners. Whereas, the First Appellate Court has wrongly observed in paragraph No. 9 of the impugned judgment that Trial Court decided the *prima facie* case in favor of the petitioners on the basis of the case of the appellant i.e., the respondents which is not true.

15. The learned counsel for the petitioners has further submitted that the respondents, only in order to have a copy of the registration certificate and PAN Card of the petitioner No.1 Union, had filed a false FIR and, thereafter, obtained the duplicate copy of the registration certificate and the PAN Card on 10.02.2020.

16. The learned counsel for the petitioners has submitted that it is the petitioners who have submitted the annual audit reports under Section 11 and 28 of the Trade Unions Act, 1926 for a long time, i.e. from the year 2013 to 2023 demonstrating continuity whereas the respondents in order to fabrication legitimacy of their false claim submitted audit reports only from 2021-23.

17. The learned counsel for the petitioners also submitted that the Appellate Court also erred in relying on Annexure E to J filed by the respondent for the first time before the Appellate Court in a proceeding under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908. He submits that there is a specific provision for admission of new evidence at appellate stage, however, without taking recourse to the said provision, the respondents produced the said documents

and the Appellate Court also relied on the same, which is an erroneous approach.

18. The learned counsel for the petitioners has submitted that the Appellate Court without indicating the perversity or arbitrariness in the order of Trial Court and by erroneously holding that the Trial Court was wrong in holding the presence of strong *prima facie* case in favour of the present petitioners had wrongly set aside the temporary injunction order which is beyond the scope of the order 43 Rule 1 (r) of the Code of Civil Procedure, 1908.

19. In support of his submissions, the learned counsel for the petitioners has cited the following rulings.

- (i) ***Wander Ltd. & Another Vs. Antox India Pvt. Ltd.***, reported in ***1990 Supp (1) SCC 727***
- (ii) ***Ramakant Ambalal Choksi Vs. Harish Ambalal Choksi***, reported in ***(2024) 11 SCC 351***
- (iii) ***Seema Arshad Zaheer & Others Vs. Municipal Corporation of Greater Mumbai***, reported in ***(2006) 5 SCC 282***
- (iv) ***State of Maharashtra Vs. M/s Hindustan Construction Company Limited*** reported in ***(2010) 4 SCC 518***
- (v) ***Dalpat Kumar and Another Vs. Prahlad Singh and Others*** reported in ***(1992) 1 SCC 711***

20. On the other hand, Mr. R. Sarma, the learned counsel for the respondents, the present revision petition filed by the petitioners is liable to be dismissed inasmuch as there is no infirmity and illegality in the order passed by the Court of learned Additional District Judge (FTC) No. 3, Kamrup (Metro), Guwahati.

21. He submits that the present respondents are the President and Secretary respectively of the Purvottar Simnta Railway Karmachari Sangh (affiliated to BMS/BRMS) bearing Registration No. 721/1971. He submits that the present petitioner No. 1 is Union constituted by the rival group of Purvottar Simnta Railway Karmachari Sangh without any legal basis. He also submits that the registration certificate annexed by the present petitioner was in fact the registration certificate of the Union of which the respondents are President and Secretary.

22. The learned counsel for the respondents submits that the Original Purvottar Simnta Railway Karmachari Sangh had never withdrawn its affiliation from Bharatiya Railway Mazdoor Sangh. It is still under the affiliation of BMS/BRMS. He also submits that the respondents have also submitted audit reports of the Union for the year 2021, 2022 and 2023.

23. He also submits that though, the respondent No. 1 is a retired employee of Indian Railways, however, according to the constitution of Purvottar Simnta Railway Karmachari Sangh (affiliated under BMS/BRMS) there is no restriction for a retired railway employee in holding the post of an office bearer of the Union. He also submits that as in the Secret Ballot Elections, which were scheduled to begin on 4th, 5th and 6th of December 2021, the nomination of the names of the present petitioners were cancelled and as such, they do not have any prima facie case to get relief of temporary injunction.

24. The learned counsel for the respondents also submits that in the Biennial General Council meeting of the Purvottar Simnta

Railway Karmachari Sangh, N F Railway Zone held at Katihar on 11.07.2024, the respondent Nos. 1 and 2 were elected as President and Secretary respectively of Purvottar Simnta Railway Karmachari Sangh and the same has also been intimated by the Registrar of Trade Union, Government of Assam.

25. He submits that the Trial Court granted the relief of temporary injunction without considering the existence of three ingredients of the golden principle in the grant of temporary injunction. Hence, the order of the Trial Court was rightly set aside by the Appellate Court and the impugned order does not warrant any interference by this Court in exercise of its powers under Article 227 of the Constitution of India.

26. I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record. I have also gone through the rulings cited by the learned counsel for both sides in support of their respective submissions.

27. It is apparent from the materials available on record that this is a case where two factions of the one organization are claiming itself to be the genuine organization. The only difference is that whereas the petitioners are claiming that it's Union i.e., Purvottar Simnta Railway Karmachari Sangh has been affiliated to Bharatiya Janata Mazdoor Sangh (BJMS) since the year 2021. On the other hand, the respondents who also claim themselves to be the President and Secretary of Purvottar Simnta Railway Karmachari

Sangh, claims that the affiliation of their Union continues to be with Bharatiya Janata Mazdoor Sangh (BMS/BRMS).

28. The question as to which of the faction is the original Purvottar Simnta Railway Karmachari Sangh (PSRKS) or whether there has been a bifurcation of the original Purvottar Simnta Railway Karmachari Sangh has to be considered in the pending Title suit i.e., Title Suit No. 633/2024 only.

29. However, as to whether the impugned order passed by the Court of the learned Additional District Judge (FTC) No. 3, Kamrup (Metro) is required to be interfered with by this Court or not is to be considered on the basis of settled principles for exercising the powers under Article 227 of the Constitution of India.

30. In the case of "*Shalini Shyam Shetty and Another Vs. Rajendra Shankar Patil*" reported in **2010 (8) SCC 329**, the Apex Court has observed that the High Courts cannot, on the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or Courts inferior to it. Nor can it, in exercise of this power, act as a Court of appeal over the orders of Court or tribunal subordinate to it. The High Court may interfere in the orders of subordinate court in exercise of its jurisdiction of superintendence in orders only to keep the Tribunal and Courts subordinate to it within the bounds of their authority. The High Court may also interfere if there is a patent perversity in the order of subordinate Court, however, it cannot interfere to correct mere errors of law or fact or just because another view then the one taken by Courts subordinate to it is a

possible view. In other words, the jurisdiction has to be very sparingly exercised.

31. In the instant case, the decision of the Court of the learned Additional District Judge No. 3, Kamrup (Metro), in the impugned order, may be faulted with only on the ground that it held that the Trial Court erroneously held the existence of a *prima facie* case in favour of the petitioner. Though, this Court may take a different view than the view taken by the First Appellate Court, however, the same cannot be done in exercise of the powers under Article 227 of the Constitution of India unless it comes to a finding that the decision of the First Appellate Court is as perverse decision.

32. The reasons given by the Appellate Court for setting aside the order of the Trial Court, whereby the temporary injunction was granted in favor of the present petitioner, in the considered opinion of this Court cannot be regarded as a perverse decision or a reason without any basis, though, same may be regarded as an erroneous decision. However, for rectifying a mere erroneous decision, the powers under Article 227 of the Constitution of India cannot be exercised.

33. Hence, this Court is of the considered opinion that this is not a fit case justifying any interference with the impugned order of the First Appellate Court, in exercise of the supervisory jurisdiction of this Court.

34. However, for the ends of justice, this Court deems it appropriate to observe that though the respondent Nos. 1 and 2 are not enjoined from using the name of "Purvottar Simnta Railway

Karmachari Sangh” during the pendency of the Title Suit No. 633/2024, however, while doing so, they shall specifically mention that it is affiliated to the Bharatiya Railway Mazdoor Sangh (BRMS). Admittedly, the petitioners’ Union, namely, “Purvottar Simnta Railway Karmachari Sangh” is affiliated to Bharatiya Janta Mazdoor Sangh (BJMS). As stated earlier the dispute between the parties as to which one is the original faction of the Purvottar Simnta Railway Karmachari Sangh (PSRKS) shall have to be decided in the pending Title Suit No. 633/2024 by the Trial Court.

35. This Civil Revision Petition is, accordingly, disposed of.

JUDGE

Comparing Assistant