GAHC010206472024

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

Case No. : CRP(IO)/395/2024

M/S CANDIDA ENTERPRISE AND 4 ORS
A REGD. PARTNERSHIP FIRM, HAVING ITS OFFICE AT KALIRAM MEDHI ROAD, RANIBARI, PANBAZAR, GUWAHATI-01, DIST- KAMRUP(M), ASSAM

2: PRANAB KUMAR BANERJEE
S/O- LATE DURGA CHARAN BANERJEE

3: TUSHARKANA BANERJEE
W/O- LATE GAUTAM BANERJEE

4: SHIBANI BANERJEE
D/O- LATE DURGA CHARAN BANERJEE

5: SIDDHARTHA BANERJEE
S/O- PRANAB KUMAR BANERJEE

(ALL ARE R/O MATRI BHAWAN
MOTILAL NEHRU ROAD
PANBAZAR GUWAHATI-01
KAMRUP (M)

HEREIN THE PET. IS REP. BY SIDDARTH BANERJEE
THE PET. NO-5

VERSUS

PARTHA SARATHI BANERJEE AND 2 ORS
S/O- PRANAB KUMAR BANERJEE,
R/O- MATRI BHAWAN, MOTILAL NEHRU ROAD, PANBAZAR, GUWAHATI-01, KAMRUP (M)

2:M/S SUBHAM BUILDWELL

A DULY CONSTITUTED PARTNERSHIP FIRM HAVING ITS OFFICE AT
SUBHAM VELOCITY
GS ROAD
DISPUR
KAMRUP (M)
ASSAM

REP. BY ITS ONE OF THE PARTNER KAMAL KUMAR JAIN
S/O- LATE JHUMARMAL JAIN

3:SANDEEP MALU
S/O- BIMAL SINGH MALU

C/O- SUBHAM BUILDWELL

SUBHAM VELOCITY

GS ROAD
DISPUR
KAMRUP (M)
ASSA

Advocate for the Petitioner : MR H DAS, MR. P GOGOI

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 01.10.2024

Heard Mr. H. Das, learned counsel for the petitioners.

This application under Article 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure impugning the order dated 21.08.2024 passed by the Court of learned Civil Judge (Sr. Div) No.2, Kamrup(M) , and the said Court had allowed an application filed by the respondent No.1, whereby the present petitioners were directed to furnish the names of the respective buyers.

Learned counsel for the petitioners has submitted that the respondent

No.1 has filed a Title Suit, which has been registered as T.S. No.447/2019 claiming his share in the business of the petitioners on the basis of being the successor of one of the partner of the petitioner No.1.

The learned counsel for the petitioners has submitted that the predecessor in interest of the respondent No.1, namely, Lt. Swapna Banerjee, who was one of the partner of the petitioner No.1 is no longer partner of the said firm as her name was deleted in the year 2013 on her retiring from the partnership after executing a deed of retirement.

The learned counsel for the petitioners has also submitted that the petition which was allowed by the impugned order itself was not mentioned in the said petition as under which provision of law the said petition has been filed.

The learned counsel for the petitioners has also submitted that there is no provision in the Code of Civil Procedure not even under Order 11 of the said Code, which requires furnishing of the names of the respective buyers to the respondent No.1, if the same is not in any way connected with the suit pending before the Trial Court.

Learned counsel for the petitioners has also submitted that the purpose of allowing the petition filed by the respondent No.1 or disclosing the names of respective buyers has also not being mentioned in its application neither the same has been mentioned in the impugned order.

Learned counsel for the petitioners therefore submits that the petition filed by the respondent No.1 is not maintainable and the impugned order is also liable to be interfered with.

Issue notice to the respondents.

Since Mr. P. Hazarika, learned counsel has appeared for the respondent Nos.2 and 3, no formal notice need to be sent to the said respondents.

As regards respondent No.1 is concerned, the petitioners shall take steps on respondent No.1 by registered post with A/D as well as by usual mode within 2 days from the date of this order, returnable on 06.11.2024.

In the meanwhile, considering the submissions made by learned counsel for the petitioners as discussed herein above, the operation of the impugned order dated 21.08.2024 passed in Title Suit No.447/2019 by the Court of learned Civil Judge (Sr. Div) No.2 Kamrup(M) shall remain stayed until next returnable date.

JUDGE

Comparing Assistant