

GAHC010214812022



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

Case No. : I.A.(Civil)/3642/2022
In RSA No. 183/2022

KHANIKA TEA ESTATE PVT. LTD. AND ANR.
(UNDER COMPANIES ACT)

2: THE MANAGING DIRECTOR
NAMELY SABIR AHMED (AGE 49 YEARS)
S/O LATE ALHAZ BAKHTIAR AHMED

RESIDENT OF NIRMALIGAON MANKATA KHANIKA
MOUZA DIBRUGARH
PS DIBRUGARH SADAR POLICE STATION
PO AND DIST DIBRUGARH
ASSAM
VERSUS

SRI SRIDAKHINPAT SATRA AND ANR.
REPRESENTED BY THE SATRADHIKAR SHREE SHREE NONI GOPAL DEBO
GOSWAMI
S/O PITAMBAR DEVA GOSWAMI
RESIDENT OF MAJULI SHREE SHREE DAKHINPAT SATRA
MOUZA SALAMORA KAMALBARI SATRADHIKAR
DIST JORHAT
PO JORHAT
ASSAM

2:SRI BUP BAYAN
S/O MOINA SAIKIA
RESIDENT OF DAKHINPAT SATRA

PS KAMALABARI
PO DAKHINOAT SATRA MOUZA SALMARA MAJULI
DIST JORHAT
ASSAM

Advocate for : MR. A SARMA
Advocate for : appearing for SRI SRIDAKHINPAT SATRA AND ANR.

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

09.12.2022

Heard Mr A Sattar, learned counsel for the applicants/appellants.

This is an application filed under Order XLI Rule 5, read with Section 151 CPC, 1908, for stay of the impugned Judgment and Decree dated 20.09.2022, passed by the learned District Judge, Nagaon, in Title Appeal No. 02/2021 and the Judgment and Order dated 24.06.2019, passed by the learned Civil Judge, Nagaon, in Title Suit No. 20/2014.

It is submitted by the learned counsel for the applicants/appellants that after filing of the connected appeal, they came to know about the pendency of an execution case, i.e., Title Execution Case No. 17 of 2019, in the Court of learned Civil Judge, Nagaon.

It is also submitted that though they had approached before the learned trial Court regarding filing of a regular second appeal before this Court and prayed for stay of the execution proceeding, but, the matter was not taken up, as there was no stay order from the higher Court.

Learned counsel for the applicants also shows some discrepancies in the schedule of land in the power of attorney, along with lease deed as well as schedule of the Title Suit.

It is also submitted that there is every possibility that the impugned judgment would be reverse. It is further submitted that prior to expiry of lease, the case has been instituted before the Court of Civil Judge, Nagaon.

Considering the submission made by the learned counsel for the appellants/applicants, in the backdrop of the matter, the operation of the impugned Judgment and Decree dated 20.09.2022, passed by the learned District Judge, Nagaon, in Title Appeal No. 02/2021, and the Judgment and Order dated 24.06.2019, passed by the learned Civil Judge, Nagaon, in Title Suit No. 20/2014 are hereby stayed, till the returnable date.

Issue notice upon the respondents.

The applicants shall take steps for service of notice upon respondents by registered post with A/D as well as by usual process, returnable within 6 (six) weeks.

Steps be taken by the applicants within a week from today.

List the matter accordingly.

JUDGE

Comparing Assistant