

GAHC010259172024



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

Case No. : CRP(IO)/522/2024

ARUN RABHA AND ANR
S/O LATE LOD RABHA,
RESIDENT OF TANGLA TOWN, WARD NO. 4, NEAR HARSINGA REVENUE
CIRCLE OFFICE, MOUZA DAKUR, PS TANGLA, DIST UDALGURI, BTAD,
ASSAM

2: SMTI BIJOYATA DEVI RABHA @ BIMALA RABHA
W/O LATE ARUN RABHA

RESIDENT OF TANGLA TOWN
WARD NO. 4
NEAR HARSINGA REVENUE CIRCLE OFFICE
MOUZA DAKUR
PS TANGLA
DIST UDALGURI
BTAD
ASSA

VERSUS

HARI CH KACHARI
S/O LATE MANI RAM KACHARI,
RESIDENT OF UTTAR BESBHAGATI, MOUZA KALAIGAON, PS
KALAIGAON, DIST UDALGURI, BTAD, ASSAM 784525

Advocate for the Petitioner : MS. S S SAIKIA, MR S.K. KASHYAP, MR. M K SARMA

Advocate for the Respondent : ,

BEFORE

HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

13.12.2024

Heard Mr. M. K. Sarma, learned counsel for the petitioner.

By this application under Article 227 of Constitution of India, the petitioner has prayed for setting aside and quashing the order dated 21.11.2023 in Misc(J) 14/2023 and 06.12.2023 passed by the learned Civil Judge (Sr. Divn.) Udalguri in TS No. 16/2023.

Issue notice to the respondent by registered A/D post and usual process, returnable within 4(four) weeks.

It is submitted by the learned counsel for the petitioner that there was no order passed by the learned trial court for appointing commissioner in the main suit. However, in the order dated 21.11.2023, it reflects that one advocate commissioner was appointed for filing of report whether the tin sheet boundary is covered after filing of the suit preferred by the plaintiff and part of the suit land falls within the tin sheet boundary, without giving any opportunity to the respondent to cross-examine the advocate commissioner. The subsequent order dated 06.12.2023 was also passed without specific order of appointing Commissioner. Issues have not yet been framed. Under such backdrop, learned counsel for the petitioner prays to stay the further proceeding of TS Case No.16/2023.

Considering the submission of the learned counsel for the petitioner, further proceeding of TS Case No. 16/2023 shall remain stayed, till the returnable date.

Call for the scanned copy of trial court record.

Registry to procure the same.

List the matter accordingly after 4(four) weeks.

JUDGE

Comparing Assistant