

GAHC040010862024



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

Case No. : IA(Crl)/74/2024

Nilotpal Das
Age: 54
Occupation :
Address: Son of Gopal Chandra Das
C/o Director
Finsperity Limited
resident of House No. 68 L
Graham road Tollygung
Kolkata 700040

2: Mrinmoy Das
Age: 33
Occupation :
Address: Son of Subhash Chandra Das
C/o Director
Finsperity Limited
resident of House No. 68 L
Graham Road
Tollygung
Kolkata 700040

3: Smti Dalia Das
Age: 48
Occupation :
Address: Wife of Nilotpal Das
C/o Director
Finsperity Limited
resident of House No. 68 L
Graham Road
Tollygung
Kolkata 700040.
VERSUS

Khoda Gyati
Age: 0
Occupation :
Address: Son of Late Khoda Mudo
proprietor of M/s Amar Construction
resident of House No. IMC 651
Vivek Vihar
DN Colle Road
Itanagar
Papumpare District
Arunachal Pradesh.

Crl.Petn./128/2024

Nilotpal Das and 2 Ors
Son of Gopal Chandra Das, C/o Director, Finsperity Limited, resident of House No.
68 L, Graham road Tollygung, Kolkata 700040

2: Mrinmoy Das
Age:
Occupation :
Son of Subhash Chandra Das
C/o Director
Finsperity Limited
resident of House No. 68 L
Graham Road
Tollygung
Kolkata 700040

3: Smti Dalia Das
Age:
Occupation :
Wife of Nilotpal Das
C/o Director
Finsperity Limited
resident of House No. 68 L
Graham Road
Tollygung
Kolkata 700040

VERSUS

Khoda Gyati
Son of Late Khoda Mudo, proprietor of M/s Amar Construction, resident of House
Ni. IMC 651, Vivek Vihar, DN College Road, Itanagar, District Papumpare,
Arunachal Pradesh.

Advocate for the Petitioner : Jyoti Zongluju

Advocate for the Respondent :

BEFORE
HONBLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 28.08.2024

Heard Mr. V. Jamoh, learned counsel for the applicants/petitioners.

This interlocutory application has been filed by the applicants in connection with criminal petition No. 128/2024, praying for staying the further proceeding of C.R. Case No. 04/2023, pending in the Court of the learned Chief Judicial Magistrate, Ziro, District Lower Subansiri.

The learned counsel for the applicants/petitioners has submitted that the petitioners have filed the connected criminal petition impugning the order dated 31.07.2024 passed by the learned Chief Judicial Magistrate, Ziro, in C.R. Case No. 04/2023, where notice has already been issued to the respondent.

The learned counsel for the applicants/petitioners has submitted that the learned Trial Court has erred in taking the cognizance of the complaint case filed by the respondent in spite of the fact that there has been clear violation of Section 138 (B) of the Negotiable Instrument Act, 1881. As apparently the notice under said provision has been issued beyond the time of 30 (thirty) days prescribed, therein, from the receipt of the information regarding dishonour of cheque by the complainant. The learned counsel for the applicants/petitioners submits that in this case, notice was issued after 54 (fifty four) days instead of

30 (thirty) days as prescribed under the statute.

In view of submissions made by the learned counsel for the applicants/petitioners, further proceeding of C.R. Case No. 04/2023 is stayed till the next returnable date.

Issue notice to the respondent in this interlocutory application, fixing the returnable date on 19th September, 2024.

The applicants/petitioners shall take steps for issuance of notice to the respondent by registered post with A/D as well as by usual mode within 3 (three) days.

List this matter on 19th September, 2024.

JUDGE

Comparing Assistant