
(2019) 08 GAU CK 0052
In the Gauhati High Court
Case No : First Appeal Orders No. 9 Of 2015

Bulu Probha Bhuyan And 2 Ors

APPELLANT

Vs

Dipali Bhuyan And 11 Ors

RESPONDENT

Date of Decision : 21-08-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Section 151, Order 39 Rules 1, Order 39 Rules 2

Citation : (2019) 08 GAU CK 0052

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : A Saikia

Final Decision : Allowed

Judgement

1. Heard Mr. NN Upadhaya, learned counsel for the appellant and Mr. PJ Saikia, learned counsel for the respondents.

2. The suit land in question comprising of Schedule-A, Schedule-B and Schedule-C lands originally belonged to Manik Lal Bhuyan and is covered by Dag No.17, PP No.38 situated at Amolapatti Gaon Ward under Dibrugarh Town in the district Dibrugarh. Schedule-B land is a part of Schedule-A land, which had in the meantime already been sold by the defendant respondent No.1 to the defendant respondent No.2 and the Schedule-C land had been sold to defendant respondent No.3, in the year 2005 itself.

3. The Title Suit being TS No.94/2014 had been preferred by some of the descendents of Manik Lal Bhuyan against the respondent defendant No.1, who is the wife of one of his sons by claiming that all the descendents have equal shares over the land of Manik Lal Bhuyan. In the resultant situation, the petition under order-XXXIX Rules-1 and 2 read with Section 151 of CPC had been preferred by the plaintiff seeking for an injunction that during the pendency of the suit, the defendant respondent No.1 be restrained from selling the suit land or mortgage or leasing the same to any other person. Further prayer was also

made that restraint order be passed against the defendant respondent Nos. 2 and 3 from entering the suit land Schedule-B and Schedule-C.

4. It is stated that a part of the suit land Schedule-B and Schedule-C had in the meantime been acquired by the Government for some public purpose and compensation thereof had been paid and received by the defendant Nos. 2 and 3. Considering the said aspect, the Court does not find that any restraint order is required to be passed in respect of Schedule-B and Schedule-C land. As regards the remaining portion of the Schedule-A land, the Court is of the view that as the defendant respondent No.1 had already sold a part of the original suit land, the apprehension of the appellant plaintiff that the other part of the suit land may also be alienated cannot said to be without any substance.

5. Accordingly, in the interim it is provided as regards the remaining part of the Schedule-A land i.e. without the Schedule-B and Schedule-C land, a status-quo be maintained thereof by the parties during the pendency of the Title Suit No.94/2014.

6. By providing such the appeal stands allowed to the extent indicated above.

7. Send back the LCR immediately.

8. As agreed by the parties, it is provided that the learned trial Court shall make an endeavour to dispose of the suit as early as possible.