

GAHC010261162025



2026:GAU-AS:6444

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

**Case No. : FAO/75/2025**

SMTI DYOTIKANA MEDHI AND 2 ORS  
W/O LATE BIRO BHADRA MEDHI, R/O MEDHI NIWAS, SANTIPUR, P.S.  
BHARALUMUKH, IN THE DIST. KAMRUP (M), GUWAHATI, ASSAM, PIN  
781009

2: ANIRUDDHA MEDHI  
S/O LATE BIRO BHADRA MEDHI  
R/O MEDHI NIWAS  
SANTIPUR  
P.S. BHARALUMUKH IN THE DIST. KAMRUP (M)  
GUWAHATI  
ASSAM  
PIN 781009

3: DUSHMANTA MEDHI  
R/O MEDHI NIWAS  
SANTIPUR  
P.S. BHARALUMUKH  
IN THE DIST. KAMRUP (M)  
GUWAHATI  
ASSAM  
PIN 78100

VERSUS

MSTI SARITA DEVI JAIN  
W/O SRI SUSHIL KUMAR JAIN, R/O NEHA APARTMENT, BLOCK 2,  
ATHGAON, P.S. BHARALUMUKH, DIST. KAMRUP (M), GUWAHATI, ASSAM  
781001

**Advocate for the Petitioner : MR. D DAS SR. ADV, MR B DEORI**

**Advocate for the Respondent** : MR. S.SARMA, SR. ADVOCATE, MR. A GAUTAM, FOR  
CAVEATOR,MR. C TALUKDAR

**BEFORE**  
**HON'BLE MRS. JUSTICE MITALI THAKURIA**

Date on which judgment is reserved : 24.02.2026

Date of pronouncement of judgment : 11.05.2026

Whether the pronouncement is of the operative part of the judgment? : N/A.

Whether the full judgment has been pronounced? : Yes.

**Judgment & Order (CAV)**

Heard Mr. D. Das, learned Senior Counsel assisted by Mr. F. Faridi and Mr. G. Bharadwaj, learned counsel for the appellants. Also heard Mr. S. Sarma, learned Senior Counsel assisted by Mr. I. Chhaya and Mr. A. Gautam, learned counsel appearing for the sole respondent.

**2.** This is an appeal filed under Order XLIII Rule 1(r) read with Section 104 of the Code of Civil Procedure, 1908 against the order dated 06.11.2025, passed by the learned Civil Judge (Sr. Division) No.1, Kamrup (M) at Guwahati in Misc. (J) Case No.852/2025, arising out of Title Suit No.505/2023.

**3.** The background of the present appeal is that Late Kali Ram Medhi had three sons, namely, Ram Bhadra Medhi, Surendra Nath Medhi and Subhadra Medhi (all since deceased) and Late Ram Bhadra Medhi was the predecessor-in-

interest of the Appellants/Plaintiffs. The Appellants/ Plaintiffs are the legal heirs of Late Biro Bhadra Medhi, son of Late Ram Bhadra Medhi, who expired on 24.05.2021. It is relevant to mention herein that Late Subhadra Medhi was the owner and recorded pattadar of the Suit land, who died unmarried on 23.02.2016 and during his lifetime, he had executed a registered WILL dated 17.01.2015, before the Senior Sub-Registrar, Kamrup (Metro), Guwahati vide Registration No. 10, Serial No. 1232, whereby he bequeathed the Schedule A property in favour of the Appellants/Plaintiffs' predecessor-in-interest, Biro Bhadra Medhi (since deceased).

**4.** After the demise of Late Subhadra Medhi, Biro Bhadra Medhi (then alive) filed an application under Section 276 of the Indian Succession Act, 1925 for grant of probate in respect of the aforesaid WILL dated 17.01.2015 before the Hon'ble District and Sessions Judge, Kamrup (Metro), Guwahati which was registered as Probate Title Suit No, 5 of 2018 and pending in the Court of Additional District and Sessions Judge No.2, Kamrup (Metro), Guwahati. It is relevant to mention herein that during the pendency of the said Probate Title Suit No. 5 of 2018, Biro Bhadra Medhi expired, leaving behind the Appellants/Plaintiffs as his legal heirs.

**5.** That the predecessor-in-interest of the Appellants/Plaintiffs filed an application under Order XXXIX Rule 1 and 2 of the C.P.C, 1908 in the Probate Title Suit No. 5/2018 praying for restraining said Bandana Medhi, who was the contesting opposite party in the said probate title suit from constructing any permanent structure. In the order dated 30.11.2018 passed by the learned Additional District Judge No.2, Kamrup (Metro), Guwahati had rejected the

prayer for injunction.

**6.** That during the pendency of the aforesaid proceedings, it came to the knowledge of the Appellants/Plaintiffs that the Sri Pradip Kumar Das who is Defendant No.1 in Title Suit 505/2023, as Applicant had submitted an application before the Circle Officer, Guwahati Revenue Circle seeking mutation of his name on the strength of an alleged Sale Deed bearing No. 15840 dated 31.12.2008 purportedly executed by Late Subhadra Medhi in respect of the Schedule-A land. The said application was registered as Mutation Application No. 50809/21-22. The Applicant No.3 had filed an objection dated 07.04.2022 with the Circle Officer, Guwahati Revenue Circle praying for not to grant mutation for schedule land on the grounds mentioned therein. But soon after the abovementioned mutation order, Sri Pradip Kumar Das executed a Deed of Sale dated 17.11.2022 in favor of Respondent within a short span of less than a month in connivance with the Officials of Revenue Department.

**7.** Being dissatisfied with the said order of the Circle Officer, the Appellants as Plaintiffs had instituted a Title Suit being T.S. No. 505/2023 against the Defendants therein including the Respondent herein above who is the Defendant No.2, before the Learned Court of Civil Judge (Senior Division) No.1, Kamrup (M) at Guwahati, *inter alia* praying for a declaratory reliefs, decree of eviction, permanent injunction and issuance of precept in respect of the suit land.

**8.** It is submitted by Mr. D. Das, the learned Senior Counsel that upon receipt of the Summons in Title Suit No. 505 of 2023, the Defendants Nos. 1 & 2 entered appearance and filed their separate Written Statement denying various statements made in the plaint. The Respondent as Defendants No. 2 also filed a

counter-claim praying for the relief to declaration that the plaintiff is the *bona fide* purchaser of the suit land, the Will No. 10/15 dated 17-01-2015 is fabricated and a nullity in the eye of law, confirmation of possession, permanent injunction as well as other reliefs.

**9.** Mr. Das, the learned Senior Counsel for the appellants further submitted that the appellants also filed an injunction application under Order XXXIX Rule 1 and 2 of the C.P.C, which was registered Misc (J) Case No. 824/2023 praying for temporary injunction, restraining the defendants /opposite parties therein from alienating as well as from changing the nature and character of the suit land. The respondent herein had filed her written objection against said injunction application denying various statements made therein and the same is still pending for adjudication. In the meantime, during the pendency of abovementioned suit, the Appellant No.3 had lodged an F.I.R. with the Bharalumukh P.S., against Pradip Kumar Das who is Defendant No. 1 in T.S. No.505/2023 and his associates and other Government officials which was registered and numbered as Bharalumukh P.S. No. 357/2023, under Sections 420/406/409/468/471/34 of the IPC and during the investigation of the said case, the Crime Branch had made multiple arrests including many Revenue Officials who were involved in the fraudulent activities along with son of the Respondent herein in grabbing of the land belonging to Plaintiffs and his family. Soon after the arrest of the son of the respondent, in connection with the conspiracy to commit fraud and land grabbing activities of Appellants' ancestral land, left the schedule land unattended and to protect the interest of the Appellants' land from any third party, they came into possession of the Schedule Land. As such, the Appellants, their men, agents and assigns are currently in possession of the Schedule land.

**10.** Accordingly, the District Commissioner, Kamrup (M) District upon perusal of the investigation report of the Bharalumukh P.S. No. 357/2023 and vide letter dated 23.02.2024 received from Deputy Commissioner of Police (Crime), Guwahati, Assam regarding fake and forged land documents prepared with regard to the Schedule Land, directed the Circle Officer, Guwahati Revenue Circle to cancel the Mutation Case immediately vide letter dated 20.10.2022. It is relevant to mention herein that although the Respondent had approached this Court by filing WP(C) No. 1582/2025, wherein the Appellants were not made parties, vide order dated 04.04.2025 set aside the order dated 08.03.2024 passed by the District Commissioner, Kamrup (Metro), on the ground that no notice was issued to the Respondent.

**11.** Thereafter, on 04.06.2024, the Respondent herein as Defendant No.2 had filed an application in the Court of learned Civil Judge (Senior Division) No.1, Kamrup (M) under Order VI Rule 17 read with Section 151 of the CPC, which was registered as Misc. (J) Case No. 501/2024, arising out of Title Suit No. 505/2023 and in the said application, the Respondent had prayed for a decree of recovery of the schedule plot of land from the Appellants/Plaintiffs. It is relevant to mention herein that the said application was withdrawn by the Respondent/Defendant No.2 on 09.09.2025, after more than one year from the date of filing of the application but the statements made in that application are all made on oath and same cannot be denied by the Respondent herein. During the pendency of the Misc. (J) Case No.501/2024, the Appellants herein had filed an application under the provisions of Order VI Rule 17 read with Section 151 of the CPC, which is registered as Misc (J) Case No 759/2024 arising out of Title Suit 505/2023. By the said application, the Appellants herein sought to incorporate subsequent developments and to amend the prayer to include a

decree for confirmation of possession. The Respondent filed a written objection in Misc. (J) Case No. 759/2024, wherein they admitted that the Appellants are in possession of the suit land and the learned Civil Judge (Senior Division) No.1, Kamrup (M) by order dated 06.11.2025, disposed of the Misc. (J) Case No. 759/2024 by partially allowing the amendment application and without taking into consideration that Appellants are in possession of the schedule land.

**12.** It is submitted on behalf of the appellants that the Respondent on 17.07.2025 filed an application under Order XXXIX Rules 1 and 2, CPC read with Order XXVI Rule 9 of the CPC before the Court of learned Civil Judge (Senior Division) No.1, Kamrup (M) which was registered and numbered as Misc.(J) Case No.666/2025, arising out of Title Suit No. 505/2023 and the said application was dismissed by Learned Court of Civil Judge (Senior Division) No.1, Kamrup (M) as being not pressed by the Respondent. Thereafter, the Respondent on 09.09.2025, again filed second similar application under Order XXXIX Rules 1 and 2, CPC read with Order XXVI Rule 9, CPC read with Section 151, CPC in the Court of learned Civil Judge (Senior Division) No.1, Kamrup (M) which was registered and numbered as Misc. (J) Case No.852/2025 arising out of Title Suit No. 505/2025 and the learned Civil Judge (Senior Division) No.1, Kamrup (M) after hearing both the sides, by the order dated 09.09.2025 did not pass any ad-interim order and directed the Appellants to submit their written objection. Accordingly, the appellants/opposite parties therein filed their written objection in Misc. (J) Case No.852/2025 and thereafter upon hearing the learned counsel for the parties, by the impugned order dated 06.11.2025 the learned Civil Judge (Senior Division) No.1, Kamrup (M), Guwahati, disposed of the Misc.(J) Case No.852/2025, directing the Plaintiffs/Appellants herein to keep their hands off the suit property and not to interfere in possession of Defendant

No.2, i.e. the Respondent herein and further directed the Appellants herein, their agents, men to remove all banners, fixtures and any movable kept by them in the suit premises after their unauthorized entry from the suit property.

**13.** It is contended by Mr. Das, the learned Senior Counsel that subsequent to the passing of the impugned order dated 06.11.2025, in Misc. (J) Case No. 852/2025 by the learned Civil Judge (Senior Division) No.1, Kamrup (M), Guwahati, the Respondent issued a letter dated 07.11.2025 which further concretely establishes and acknowledges that the Appellants are in possession of the suit premises. It is submitted by the learned Senior Counsel that the learned Court below has committed manifest illegality, material irregularity and jurisdictional error in passing the impugned order dated 06.11.2025, in-as-much as it has failed to properly appreciate the admitted and undisputed factual position that the Appellants have been in continuous, peaceful, and settled possession of the suit premises for more than one year prior to the passing of the impugned order. The learned Court below, while exercising its discretionary jurisdiction under Order XXXIX Rules 1 and 2 of the CPC, has failed to consider the cogent and unimpeachable materials placed on record demonstrating that the Appellants have been maintaining the electricity connection in their own name and regularly paying the electricity bills in respect of the suit premises, thereby clearly evidencing their actual physical possession. The learned Court further erred in law in ignoring such documentary proof and also failed to draw the necessary legal presumption arising there from, while erroneously proceeding on conjectures favourable to the Respondent. As such the impugned order, suffers from patent non-application of judicial mind to the material evidence and has resulted in grave miscarriage of justice, rendering the same perverse and unsustainable in the eye of law.

**14.** It is submitted by Mr. Das, the learned Senior Counsel that the learned Court below committed manifest illegality in entertaining and allowing the second application for injunction filed by the Respondent, even though similar reliefs had already been sought and declined in earlier proceedings. The Respondent had earlier filed Misc. (J) Case No.501/2024, an amendment application under Order VI Rule 17 read with Section 151 CPC, praying for recovery of possession wherein she herself admitted that the Appellants were in possession of the suit property and thereafter filed the Misc. (J) Case No.666/2025 which was dismissed as not pressed. As such, entertaining another application under the same provisions without any change in circumstance was a clear abuse of the process. It is further submitted by the learned Senior Advocate that the learned Court below failed to take into consideration the fact that the second injunction application was filed on 09.09.2025 and registered as Misc. (J) Case No.852/2025 after a year of the filing of the amendment application for recovery of possession by the respondent which was filed on 04.06.2024 and registered as Misc. (J) Case No. 501/2024 and therefore the learned Court below ought not to have granted the relief of mandatory injunction wherein no necessity of immediate intervention and/or urgency was projected by the respondent.

**15.** It is further submitted by the learned Senior Counsel that the impugned order dated 06.11.2025, granting temporary injunction against the Appellants is ex-facie illegal and unsustainable, in as much as the same has been passed mechanically, without recording any finding on the existence of the three mandatory ingredients for grant of injunction namely, prima facie case, balance of convenience and irreparable loss. The learned Court below has exercised its discretion in a manner contrary to the settled principles governing injunctions,

thereby vitiating the impugned order in its entirety. Furthermore, the statements made in the injunction application by the respondent are beyond the pleadings of the counter-claim and the mandatory relief not explicitly prayed in the counter-claim, cannot be granted by the learned Court below. Furthermore, the decisions cannot be based outside the pleadings and the relief not asked for in the counter-claim cannot be granted without an amendment to the counter-claim.

**16.** Mr. D. Das, the learned Senior Counsel for the appellants submitted that relief cannot be granted by way of mandatory injunction if it is not amenable for exercising discretion of the Court but it should also satisfy the availability of judicial discretion. In that context, the learned Senior Counsel also relied on a decision of the Hon'ble Supreme Court in the case of **HUDA vs. Nirmala Devi**, reported in **(2025) Live Law SC 700** and emphasized on para 74 and 76 of the said judgment. Mr. Das, the learned Senior Counsel further submitted that there was no such prayer for mandatory injunction and order of such mandatory injunction had deprived the parties from an opportunity to oppose such relief and hence, it would lead to miscarriage of justice and the decision cannot be based on the grounds outside the pleadings of the parties.

**17.** To substantiate his plea, the learned Senior Counsel further relied on another decision of the Hon'ble Supreme Court in the case of **Mrs. Akella Lalitha vs. Sri Konda Hanumantha Rao and anr**, reported in **(2022) Live Law SC 638**. Mr. Das, the learned Senior Counsel further submitted that in the instant case, the respondent as the defendant in the Title Suit took different stands, where in one hand they claimed their possession over the suit property and on the other hand, they claimed for injunction along with a prayer for mandatory injunction

for restraining the appellants from entering into the disputed land.

**18.** Citing a decision of the Hon'ble Apex Court in the case of ***Suzuki Parasrampuriah Suitings Private Ltd. vs. Official Liquidator Mahendra Petrochemicals Ltd.*** reported in ***(2018) 10 SCC 707***, wherein it has been held that *"a litigant cannot take contradictory stands in the same case. A party cannot be permitted to approbate and reprobate on the same facts and take inconsistent shifting stands. He cannot prevaricate and take inconsistent positions"*. Mr. D. Das, the learned Senior Counsel for the appellants submitted that the learned Civil Judge (Sr. Div.) No. 1, Kamrup (M) at Guwahati had passed the order of injunction along with the mandatory injunction without considering all the aspects of the case and even not considering the possession of the appellants/plaintiffs over the suit property and thus, the impugned order had caused prejudice to the appellants/plaintiffs and hence, interference of this Court is necessary.

**19.** The case of the respondent is that she is the lawful owner of the land measuring 3 kathas 10 lechas located at Village Sahar Guwahati (Part I), covered by Dag No. 1324 and Dag No. 1323 of K.P. Patta No. 803 and 802 respectively, situated at Arunodoi Path, Narayan Nagar, Guwahati 781009 [hereinafter referred to as the "Suit Property"]. The respondent purchased the Suit Property for valuable consideration from the previous owner, Sri Pradip Kumar Das, vide a Registered Sale Deed bearing Deed No. 25043 dated 17.11.2022. Following the purchase, the respondent took physical possession of the property, constructed boundary walls, and installed a gate the name of the respondent was subsequently mutated in the land records vide order dated 16.06.2023, passed by the Circle Officer, Guwahati Revenue Circle. Thereafter,

the respondent had been in settled and peaceful physical possession since the date of purchase.

**20.** Mr. S. Sarma, learned Senior Counsel submitted that the appellants, namely, Smt. Dyotikana Medhi, Sri Aniruddha Medhi, and Sri Dushmanta Medhi having no title of their own, nor having held possession of the Suit Property, instituted the Title Suit No. 505/2023, *inter alia*, against the respondent, seeking, *inter alia*, a decree of cancellation of the Registered Sale Deed No. 2504 dated 17.11.2022 and a decree of eviction, thereby admitting that the respondent was in possession of the Suit Property. But the appellants and their associates before and after filing Title Suit No. 505/2023, have continuously attempted to encroach upon and trespass over the Suit Property in an illegal and extra judicial manner, over the past few years, and have consistently interfered with the possession of the respondent on the Suit Property. Accordingly, the respondent was constrained to file an application for injunction in the Court of learned Civil Judge (Sr. Div.) No. 1, Kamrup (M) at Guwahati which was numbered Misc (J) Case No. 852/2025 in Title Suit No. 505/2025 and by the Order dated 06.11.2025, the learned Trial Court was pleased to restrain the appellants from interfering with the respondent's possession, directing them keep their hands off the suit property and not to interfere in possession of the respondent/defendant no. 2 till disposal of the suit and the appellants/plaintiffs, their agents, men are hereby directed to remove all banners, fixtures, any movables kept by them in the suit premises after their unauthorized entry from the suit property.

**21.** It is further contended by the learned Senior Counsel that after the passing of the Order dated 06.11.2025 and considering the past intrusions by

the appellants, the respondent affixed a board on the Suit Property on 11.11.2025, indicating that the Suit Property belonged to her. The respondent was accordingly in peaceful possession of the Suit Property and her representatives/employees, namely, Kumar Chetry and Santosh Upadhaya were staying upon the Suit Property to guard it. The Suit Property remained locked at all times to prevent the appellants and/or any of their associates from trespassing upon the Suit Property and interrupting the respondent peaceful possession. The appellants have challenged the aforesaid Order dated 06.11.2025, before this Court by filing the present appeal and this Court, vide Order dated 26.11.2025 directed both the parties to maintain *status quo* regarding the suit land i.e. the Suit Property as on that date. As such, the present respondent is in continuous possession of the suit land prior to 26.11.2025 and that order effectively protected the continuous possession of the respondent herein.

**22.** Mr. S. Sarma, learned Senior Counsel for the respondent further submitted that the order passed by the learned Civil Judge (Sr. Div.) No. 1, Kamrup (M) at Guwahati is a well reasoned injunction order and hence the Appellate Court should not interfere with in appeal unless perversity is shown. In that context, Mr. Sarma, the learned senior counsel has relied upon two decisions of the Hon'ble Supreme Court, namely, the case ***Ramakant Ambalal Choksi Vs. Harish Ambalal Choksi***, reported in **(2024) 11 SCC 351** and emphasized on para 26 to 37 and the case of ***Mohd. Mehtab Khan vs. Khushnuma Ibrahim Khan*** reported in **(2013) 9 SCC 221** and emphasized on para 20 of the said judgment.

**23.** It is further submitted by Mr. S. Sarma, the learned Senior Counsel that the Hon'ble Supreme Court, in the case of ***Shyam Sel & Power Ltd. vs. Shyam***

***Steel Industries Ltd.***, reported in **(2023) 1 SCC 634** had observed that if the Appellate Court itself decides the matters required to be decided by the trial court, there would be no necessity to have the hierarchy of courts. Relying on another decision of this Court in the case of ***Sankar Kumar Das vs. Shyam Bikrom Singha Lahkar (GAHC010092532024)***, it is submitted by Mr. Sarma, the learned Senior Counsel that when a well reasoned discretionary injunction order is passed by the learned Trial Court below, the Appellate Authority should not make any interference unless any arbitrariness being shown in exercising such discretion. But here in the instant case, it is seen that the learned Civil Judge (Sr. Div.) No. 1, Kamrup (M) at Guwahati had passed a well reasoned order by considering the arguments put forwarded by both the parties and considering all the circumstances of the case and hence, there cannot be any reason to make any interference in the order passed by the learned Trial Court below. The learned Senior Counsel further submitted that it reveals from the prayer of the Title Suit itself that the appellant was not in possession of the suit land for which the prayer for recovery of the possession was prayed for but subsequently, during the pendency of the case, they illegally entered into the suit land for which the prayer for injunction along with the mandatory injunction had to be filed by the respondent, which was accordingly granted by the learned Trial Court below. In that context, the learned Senior Counsel for the respondent has relied on a decision of the Hon'ble Supreme Court rendered in the case of ***Dorab Cawasji Warden vs. Coomi Sorab Warden Lahkar*** reported in **(1990) 2 SCC 117**, and emphasized in para 15 and 16 of the said judgment, which read as under:

*“15.... in Nandan Pictures Ltd. v. Art Pictures Ltd. & Ors., AIR 1956 Cal. 428, a Division Bench was of the view that if the mandatory injunction is at all granted on an interlocutory application it is granted only to restore the status quo and not granted to establish a new state of things differing from the state which existed at the date when the suit was instituted.*”

*16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status quo of the last non-contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining."*

**24.** Accordingly, Mr. Sarma, the learned senior counsel submitted that the mandatory injunction is permitted to restore the status quo on the date of filing of the suit and considering this aspect of the case only, the order of injunction along with the mandatory injunction has been passed by the learned Civil Judge (Sr. Div.) No. 1, Kamrup (M) at Guwahati and hence, there is no reason to make any interference by the Appellate Authority at this stage and prayed for dismissal of the present appeal.

**25.** It is the case of the appellants'/plaintiffs' that the suit property as mentioned in the plaint was bequeathed in favour of Late Biro Bhadra Medhi, the predecessor-in-interest of the plaintiffs/appellants who was the nephew of Late Subhadra Medhi, by a registered will dated 17.01.2015. After the death of Subhadra Medhi, said Biro Bhadra Medhi filed a probate suit which was numbered as the Title Suit No.05/2018, in respect of the purported will, stated to be executed by Subhadra Medhi in the year 2015, which is still pending for disposal. But during the pendency of the said Probate Case, which was instituted by Biro Bhadra Medhi, died and hence, as the legal heirs, the present appellants/plaintiffs were substituted as petitioners in the said probate proceeding. It is the further claim of the appellants/plaintiffs that during the pendency of the said probate case, they came to know about the sale deed purported to be executed in the name of one Pradip Kumar Das who is the defendant No.1 in Title Suit instituted by the plaintiffs/appellants. It has also come to their notice that the said defendant No.1 Pradip Kumar Das had executed another sale deed in the name of the present respondent. Coming to

know about the same, the plaintiffs/appellants had instituted the present Title Suit seeking declaration and recovery of possession over the suit land, which is also the subject matter of the Probate Suit and from the submission as well as from the record, it is seen that during the pendency of the said Probate Suit as well as the Title Suit, a Criminal Case has also been instituted by the plaintiffs/appellants alleging grabbing of land by the said defendant No.1 Pradip Kumar Das and in the said Criminal Case, the son of the present respondent is also got arrested. The defendant No.2 also challenged the said will in the name of Biro Bhadra Medhi, the predecessor-in-interest of the plaintiffs/appellants and prayed for declaration of right, title and interest over the suit property, confirmation of possession and permanent injunction along with other reliefs. Further, it is also the claim of the plaintiffs/appellants that after the arrest of the son of the present respondent in connection with the Bharalumukh P.S. No. 357/2023 and there was cancellation of the mutation in the name of the present respondent. In the said criminal case, it is also challenged that the sale deed, which was stated to be executed in favour of said Pradip Kumar Das (defendant No.1) is a forged and fabricated deed, on the basis of which said Pradip Kumar Das had claimed his right over the property and subsequently he executed the sale deed in favour of the present respondent. It is the further case of the plaintiff that after the filing of the said Criminal Case, one enquiry was made by the Deputy Commissioner of Police (Crime), Guwahati, who wrote a letter to the Deputy Commissioner, Kamrup (M) at Guwahati on 23.02.2024 and in pursuant to the said letter, the Deputy Commissioner, Kamrup (M) at Guwahati vide order dated 08.03.2024 had cancelled the mutation of the respondent by observing that the sale deeds in the name of the defendant No.1 and defendant No.2 were fake. But it is seen that there after the respondent moved a writ petition before

this Court against the alleged cancellation of mutation, which was numbered as WP(C) No. 1582/2025 and this Court by order dated 04.04.2025 quashed the order dated 08.03.2024, passed by the Deputy Commissioner, Kamrup (M), Guwahati and all consequential civil actions. It is further seen that in the said Title Suit, the plaintiffs/appellants also prayed for injunction for restraining the defendant No.2 i.e. the present respondent from alienating the suit land and also further prayer for restraining from any construction over the suit land, till disposal of the suit, by admitting the possession of the respondent over the suit land and the said petition is still pending and till date no injunction is granted in favour of the plaintiffs/appellants in respect of the probate proceeding or in the Title Suit which is still pending for disposal. It is the further claim of the plaintiffs/appellants that after the arrest of the son of the respondent, there was none to look after the suit property and only to protect the interest of the property, they took over the possession of the property, which is their ancestral property.

**26.** Mr. D. Das, the learned Senior Advocate for the plaintiffs/appellants also stressed on the point that the respondent as the defendant No. 2 had earlier filed one amendment application admitting the possession of the appellants over the suit land but subsequently that amendment petition was withdrawn and after more than one year, the present injunction petition has been filed by introducing new facts beyond the scope of the pleading. In the earlier amendment petition for injunction, the possession of the appellants was admitted by the respondent but thereafter, the same was withdrawn with a *malafide* intention and after lapse of one year, the injunction petition vide Misc (J) Case No. 852/2025 was filed. Accordingly, it is submitted by Mr. Das, the learned Senior Advocate that the suit land is still under the possession of the

plaintiffs/appellants, which is also admitted by the defendant/respondent but without considering this fact of the case, the learned Civil Judge (Senior Division) No.1, Kamrup (M) had passed the impugned order dated 06.11.2025, restraining the plaintiffs/appellants from interfering the in possession of the defendant No.2 and also directed to remove all banners, fixtures and any movable kept in the suit premises, which is beyond the prayer of the respondent/defendant. Thus, in the petition for temporary injunction, the learned Trial Court had passed the mandatory injunction directing the plaintiffs/appellants to remove all banners, fixtures and any movable, etc. form the suit property.

**27.** On the other hand, it is the case of the defendant/respondent that the suit property belonged to one Subhadra Medhi, which is also admitted by both the parties and vide sale deed dated 31.12.2008, said Subhadra Medhi sold the suit property to one Pradip Kumar Das, the defendant No.1, who accordingly took possession of the same and obtained the mutation in the year 2022 and later on, it was sold to the defendant No.2/the present respondent, by executing a sale deed. Thereafter, the mutation was also accordingly granted in favour of the defendant No.2 but on objection filed by the plaintiffs/appellants, the mutation granted to the defendant No.2 got cancelled. After execution of the sale deed, the present respondent also took over the possession of the suit land and accordingly, also applied for mutation in the year 2023. But after filing of the title suit, the plaintiffs/appellants tried to dispossess the respondent from the suit property and even they lodged criminal cases against the defendant No.1 Pradip Kumar Das with the allegation of forgery and cheating which has been registered as C.R. Case No.20/2023. It is the further case of the

defendant/respondent that the Deputy Commissioner of Police (Crime), Guwahati acted beyond the jurisdiction and wrote a letter to the Deputy Commissioner, Kamrup (M) at Guwahati on 23.02.2024 and in pursuant to that letter, the Deputy Commissioner, Kamrup (Metro) at Guwahati vide its order dated 08.03.2024 had cancelled the mutation of the respondent by observing that the sale deeds in the name of both the defendant No.1 and the defendant No.2 are fake. Thereafter, the respondent defendant moved a writ petition before this Court which is registered as WP(C) No. 1582/2025 and this Court vide order dated 04.04.2025 had quashed the order dated 08.03.2024, passed by the Deputy Commissioner, Kamrup (M), Guwahati and all consequential civil actions. Thereafter, the plaintiffs/appellants had instituted the title suit being Title Suit No.505/2023, against the present respondent and the defendant No.1 Pradip Kumar Das praying for declaratory reliefs, decree of eviction, permanent injunction and issuance of precept in respect of the suit property.

**28.** Further, it is submitted by Mr. S. Sarma, the learned Senior Advocate for the respondent that the sale deed in question was stated to be executed in the year 2008 and the Will which is alleged to be executed by Subhadra Medhi in favour of Biro Bhadra Medhi, the predecessor-in-interest of the appellants was executed in the year 2015. Thus, said Subhadra Medhi had no transferable right to bequeath the suit property to Biro Bhadra Medhi in the year 2015, wherein the sale deed was already executed in the year 2008 in the name of Pradip Kumar Das, the defendant No.1, who subsequently executed another sale deed in favour of the present respondent in the year 2022. He further submitted that the said probate suit is still pending for disposal and the injunction petition which was filed before the learned Probate Court was already rejected and no injunction was granted in favour of the appellants in respect of the probated

property, which is also the suit property in the Title Suit. The learned Senior Advocate further submitted that till the disposal of the said Probate Case, the plaintiffs/appellants had no right, title and interest over the suit land and they cannot claim the right over the property only on the basis of inheritance which is yet to be determined in the probate suit by the learned Probate Court. Thus, till date, no right, title and interest of the plaintiffs/appellants is declared by any Court in respect of the suit property. On the other hand, the defendant No.2/respondent had a good title over the suit property on the strength of the sale deed, which was executed in her favour by the defendant No.1, in the year 2022. He further submitted that though there is a prayer for cancellation of sale deed and it is also claimed that the sale deed which was executed in favour of the defendant No.1 in the year 2008 was forged and fabricated but till date, there is no order to that effect. Hence, only on the basis of an enquiry report, it cannot be held that the said sale deed which is executed in favour of the defendant No.1 Pradip Kumar Das is forged, illegal or fabricated. Unless it is proved that the said sale deed was forged and fabricated, the right of the vendor of the sale deed, executed in favour of the respondent, cannot be challenged. Mr. Sarma, the learned Senior Advocate for the defendant/respondent submitted that there are various allegations brought against said Pradip Kumar Das wherein criminal proceeding is also initiated against him but the present respondent is not a party to the said proceeding and she purchased the suit land on good faith by executing a sale deed which was duly executed in her favour by the defendant No.1. On the strength of the said sale deed, the defendant No.2/respondent is still in possession of the suit land. But after the arrest of the son of the defendant No.2/respondent, the appellants/plaintiffs had entered into the suit land by breaking the lock etc., with the claim that they

came into possession of the suit land as it was remain unattended after the arrest of the son of the defendant No.2/respondent. Thus, without any permission of the Court, they have illegally tried to dispossess the respondent from the suit property by breaking the lock etc. of the property, for which they had to institute an injunction case.

**29.** Mr. Sarma, the learned Senor Advocate for the respondent further submitted that it is a fact that one injunction petition was earlier filed along with a prayer for amendment by the present respondent but after filing the said application, it was seen that the plaintiffs/appellants were bringing third party to the suit land and therefore, the defendant/respondent had to withdraw the earlier injunction petition and filed the present one. It is further submitted by Mr. Sarma, the learned Senor Advocate that after illegally entering into the possession of the suit property, the plaintiffs/ appellants had also filed an amendment petition trying to introduce the prayer of confirmation of possession instead of recovery of possession, claiming their possession over the suit property. But the said injunction petition was dismissed by the learned Trial Court below and the said prayer for confirmation of possession instead of recovery of possession was not granted by the learned Trial Court below. Furthermore, at the time of institution of the suit, the plaintiff/appellant only prayed for recovery of possession apart from the prayer of permanent injunction and other declaratory relief but after illegally entering into the suit premises by breaking open the lock etc., they tried to introduce new facts with new prayer for confirmation of possession.

**30.** From the discussions made above, it is seen that admittedly Late Subhadra Medhi was the owner of the suit land and it is the claim of the

appellants/plaintiffs that said Subhadra Medhi bequeathed the said suit property to the predecessor-in-interest of the plaintiffs, Late Birobhadra Medhi in the year 2015, be executing a Will and after the death of Birobhadra Medhi the present plaintiffs/appellants inherited the said property on the strength of the Will, which is stated to be executed by Late Subhadra Medhi in favour of Late Birobhadra Medhi. It is also seen that after the death of said Birobhadra Medhi, a Probate Case was instituted by the plaintiffs/appellants to get the suit property probated in their favour, wherein they also made some of the legal heirs of Subhadra Medhi as party respondents. It is also seen that during the pendency of the said Probate Suit, they also filed an injunction petition restraining Bandana Medhi but the injunction prayer was rejected by the learned Probate Court and at present, there is no injunction is operating in respect of the said property. Thus, it is seen that till date, the plaintiffs/appellants had acquired no legal right over the suit property which is claimed to be bequeathed in favour of their predecessor-in-interest Late Birobhadra Medhi. But during the pendency of the said Probate Suit, it has come to the knowledge of the plaintiffs/appellants that a registered sale deed stated to be executed by Subhadra Medhi in the name of the defendant No.1 Sri Pradip Kumar Das, who subsequently sold the same property to the present respondent/defendant No.2 by executing a registered sale deed. Coming to know about the execution of the sale deed, the plaintiffs/ appellants not only filed a Title Suit claiming right, title and interest and recovery of possession over the suit property but they also filed a Criminal Petition alleging that the sale deed which is stated to be executed by Subhadra Medhi is forged and fabricated one. In that context one report was also submitted by the Investigating Officer but the Investigating Officer has no authority or right as well as the Deputy Commissioner also do not have the

power to pass any such report or cancellation of mutation over the suit property, which was under challenge and thereafter, this Court had also passed the order on 04.04.2025 in WP(C) No.1582/2025, setting aside the order of the Deputy Commissioner dated 08.03.2024 and all subsequent civil actions and consequences.

**31.** The Criminal Case which has been instituted against the defendant No.1 Sri Pradip Kumar Das is still pending and till date there is no decision as to whether Sri Pradip Kumar Das had any sellable right over the suit property by executing a sale deed in favour of the present respondent. Subsequent thereto, many events took place wherein the appellants filed a petition praying for amendment of their pleadings and prayer by introducing the prayer claiming their confirmation of possession over the suit property with a view to establish that they had the possession over the suit property at the time of institution of the suit, which was subsequently rejected by the learned Civil Judge (Sr. Div.) No.1, Kamrup (M) at Guwahati. However, from the on admission of the appellants, it is seen that they occupied the suit land which was lying vacant only to protect the interest of the suit property, without any leave or information to the Court. Thus till date, there is no legal right of the plaintiffs/appellants over the suit property till disposal of the Probate Case or till the suit property is probated in favour of the present plaintiffs/appellants. On the other hand, it is undisputed that the respondent had purchased the suit land on the basis of a sale deed which was executed by the defendant No.1 Sri Pradip Kumar Das. Thus, the execution of the sale deed in favour of the respondent is not a disputed fact though it is claimed that the vendor of the sale deed had no legal/sellable right over the suit property. Further, from the prayer made in the Title Suit, it is very much evident that at the time of institution of the suit, the

plaintiffs/appellants were not in possession though they subsequently came into possession during the pendency of the suit. At the same time, it is also seen that the Probate Case was instituted in the year 2015, after the death of Subhadra Medhi by the predecessor-in-interest of the plaintiffs/appellants claiming right over the property on the strength of the Will, stated to be executed by Late Subhadra Medhi. But it is also seen that the suit land was claimed to be purchased by the defendant No.1 Sri Pradip Kumar Das in the year 2008 and his name is also mutated over the suit property and accordingly, the suit property was sold to the present respondent by executing a registered sale deed in the year 2022. Thus it is seen that the execution of the sale deed was much prior to the institution of the Probate Suit. The question as to whether the sale deed which is stated to be executed in favour of defendant No.1 Sri Pradip Kumar Das was forged or fabricated sale deed etc., will be determined in the Criminal Case, which is still pending for adjudication. But at this stage, there is no record to show that the sale deed was forged or fabricated one and the sale deed which is executed in favour of the present respondent by said Pradip Kumar Das had no legal or sellable right over the property.

**32.** Further, attempt for introduction of new prayer by way of amendment also shows that the plaintiffs/appellants came into possession subsequently after institution of the suit or at the time of institution and it was an admitted position that the plaintiffs/appellants were not in possession of the suit property. In the same time, admitting possession of the respondent over the suit property, the plaintiff prayed for recovery of possession, though subsequently they tried to introduce the prayer confirmation of possession by amending the prayer of the plaint.

**33.** The claim of the plaintiffs/appellants is also based on the Will, which is stated to be executed in favour of the predecessor-in-interest by the original owner Subhadra Medhi and the said Probate Case is still pending before the learned Probate Court. However, these are the matters to be decided by the learned Probate Court as well as by the learned Civil Judge (Sr. Div.) No.1, Kamrup (M) at Guwahati in regards to the title of the plaintiffs or the defendants as well. But the admittedly, the possession of the suit property at the relevant time of institution of the Title Suit was seems to be in favour of the present respondent who came into possession after purchasing the suit land on the strength of the sale deed and accordingly, her name is also mutated over the suit property who took possession over the same.

**34.** The plaintiffs have filed an amendment petition which was registered as Misc. (J) Case No.759/2024, to incorporate facts relating to them for taking over possession during the pendency of the suit, claiming that they came into possession of the suit land, which was remain unattended after the arrest of the defendant No.1 in a Criminal Case, which was lodged by them. So leaving apart the right, title and interest over the suit property of the plaintiffs as well as the defendants, it is the admitted position that at the time of institution of the Title Suit, the plaintiffs/appellants were not in possession of the suit land and hence, the prayer was accordingly made for the recovery of possession.

**35.** So, considering all these aspects of the case, the learned Civil Judge (Sr. Div.) No.1, Kamrup (M) at Guwahati in para 21 of the impugned order had observed that:

*“21. So without going into the merits of the respective claims over the property, what it appears that the suit property is in danger of being wasted, damaged and susceptible to change of hands. The complex and peculiar factual matrix of the case*

*necessitates the intervention of this court in the form of a temporary and mandatory injunction against the plaintiffs at this stage. Any order of denial of temporary injunction at this stage may cause irreparable loss and injury to petitioner/defendant no. 2 and will lead to multiplicity of proceedings. Further the plaintiffs cannot be allowed to remain in possession as it will amount to allowing a party to take benefit of its own wrong. In fact in Misc (J) Case no. 824/25 the plaintiffs while admitting possession of defendant no. 2 have prayed for temporary injunction restraining the defendant no. 2 from alienating the suit land and proceeding with any construction over the same till disposal of the suit. The said petition is pending. If the plaintiffs were really worried about the protection of the suit property they ought to have moved an appropriate application before the court for the same instead of taking its possession directly without the leave of the court and their action cannot be allowed to be perpetuated”.*

**36.** Thus, considering all the above discussions, this Court is of the opinion that the learned Trial Court below committed no error or mistake, while passing the order of injunction along with mandatory injunction, directing to remove all the banners, fixtures and any movable etc. from the suit premises and their unauthorized entry from the suit property.

**37.** Accordingly, this Court finds that there is no reason for interference in the order passed by the Civil Judge (Sr. Div.) No.1, Kamrup (M) at Guwahati in Misc. (J) Case No.852/2025 dated 06.11.2025 and accordingly the present appeal stands dismissed.

**JUDGE**

**Comparing Assistant**