

Assam Schedule VII. Form No.143

HIGH COURT FORM NO. (J) 13

Form of Order Sheet

DISTRICT : **TINSUKIA**

IN THE COURT OF THE CIVIL JUDGE, TINSUKIA

Present:- Ms. Leena Doley, AJS, Civil Judge, Tinsukia

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

Numan SiddiquePetitioner

--VS--

Smt. Gaytri Devi and AnotherOpposite Parties

13.05.2022

The parties are duly represented.

The instant Petition vide No.1932/2022 has been filed by the petitioner/plaintiff under Order XXXIX Rule 1 & 2 r.w. Section 151 of C.P.C. against the O.P.

The plaintiff in the suit has prayed for decree of declaration in favour of the plaintiff having lawful possession of the Schedule-C property (i.e. Schedule-A and Schedule-B property) in terms of Agreement dated 24.10.2018 and declaration that the plaintiff has right over the suit property by way of lease, specific performance of contract and permanent injunction against the O.P.s and other reliefs.

The contention of the petitioner in the instant petition is that one Jugal Prasad Gupta who was a

(Contd...)

13/05/22
CIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022

(Contd...)

small tea grower and was a recorded Pattadar of 7 Bighas 3 Kathas 11 Lessas land under various Dags of P.P. No.88 situated at Borhapan Gaon, Mouza-Tingrai, District- Tinsukia described in Schedule-A and was also under possession of 12 Bigha 2 Kathas 2 Lessas of land described in Schedule-B, this land belonging to Hindustan Lever Ltd and was doing business of tea leaves under the name and style of Chandra Tea Estate.

The petitioner contended that Jugal Prasad Gupta expired on 05.05.2020 and before his death, he was in good relation with the petitioners. The petitioner contended that on 30.06.2018, Jugal Prasad Gupta (deceased) being in urgent need of money approached the petitioner for financial help of Rs.5,30,000/- on condition that he shall repay the amount before 30.10.2018 and on failure to repay the said amount, it shall be converted into an advance payment in consideration of lease for 10 years of the tea garden standing over Schedule-A and Schedule-B property in favour of the petitioner.

The petitioner states that a written Agreement was duly executed and Notarized between the petitioner and Jugal Prasad Gupta on 30.06.2018

(Contd...)

13/05/22
GIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022
(Contd...)

which was duly witnessed by his son Aman Kr. Gupta and Nand Kr. Gupta and that Jugal Prasad Gupta also issued one Cheque in favour of the petitioner for the said amount. The petitioner states that the Lease period of 10 years was commenced from 31.10.2018 to 30.10.2028 and non-terminable in between the period. The petitioner further states that during continuance of Deed of agreement Jugal Prasad Gupta expressed his inability to return the amount of Rs.5,30,000/- to the petitioner and proposed to lease out Schedule-A and B property to the petitioner for a period of 15 years commencing from 01.04.2019 to 31.03.2034 on condition of making extra payment of Rs.18,55,000/- and a Deed of Lease of Agreement as executed and Notarized between them on 24.10.2018.

The petitioner contended that the said Lease Agreement was duly witnessed by son of Late Jugal Prasad Gupta namely, Aman Kumar Gupta along with one more witness and it was categorically mentioned in the Agreement that the petitioner shall quietly hold and enjoy the Schedule-A and Schedule-B property without interruption of Jugal Prasad Gupta or his legal heirs. The petitioner further contended that as

(Contd...)

20.
13/05/22
CIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022

(Contd...)

per Lease Agreement on 01.04.2019, Jugal Prasad Gupta handed over the Schedule-A and Schedule-B property to the petitioner. One Ahmad Raja Khan a distant uncle of the petitioner who informed that he was purchasing plucked green tea leaves from the garden of Jugal Prasad Gupta since 2014 made some advance payments to Jugal Prasad Gupta for supply of green tea leaves for the season of 2019 executing five numbers of money receipts dated 10.01.2019 and also produced one Cheque of Rs.1,40,000/- issued by Jugal Prasad Gupta as a security.

The petitioner also contended that on taking over possession of the Schedule-C property (Schedule-A and Schedule-B property), the production of tea leaves was nominal due to poor maintenance as tea bushes was surrounded with wild plantations, garden drains were logged with water and tea bushes were unhealthy due to lack of proper manure and non spraying of insecticides, etc. Therefore, the petitioner invested huge amount in the garden to increase productivity and fenced the garden to stop the entry of animals, etc. and also constructed one hut on a part of the said land. The petitioner also contended that Ahmad Raja Khan proposed to look after and

(Contd...)

D.
13/05/22
CIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022

(Contd...)

manage the garden and allow him to supply the plucked green tea leaves to which the petitioner agreed and authorized him to supply the green tea leaves in the name of M/s. B. N. Tea Estate and since 01.04.2019 till date, Ahmad Raja Khan is managing the garden, supplying tea leaves and the payments from the factory have been received in the account of his son.

The petitioner further stated that during subsistence of the said Lease Agreement dated 01.04.2019 Jugal Prasad Gupta proposed to sell the title of Schedule-A property to the petitioner at a consideration of Rs.14,50,000/- to which the petitioner agreed and accordingly, on 25.01.2020 one Agreement for Sale was executed and Notarized and the petitioner pay Rs.9,00,000/- by way of advance of the total consideration.

The petitioner further stated that on receipt of substantial amount, Jugal Prasad Gupta handed over his title document and revenue records of the aforesaid Patta land to the petitioner and while going through the land records, it was found that in the former Agreements dated 30.06.2018 and 24.10.2018 due to typographical mistake the details

(Contd...)

13/05/22
CIVIL JUDGE
TINSUKIA, ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022

(Contd...)

of the land was mentioned as 6 Bighas 3 Kathas 18 Lessas instead of 7 Bighas 3 Kathas 18 Lessas. The petitioner further stated that the petitioner and Jugal Prasad Gupta obtained all relevant documents required for N.O.C. and jointly applied for land sale permission before the Deputy Commissioner, Tinsukia vide Memo No.NOC/18/5544 /2020 dated 11.03.2020. The petitioner contended that he was ready to pay the balance consideration amount of Rs.5,50,000/- to Jugal Prasad Gupta on the date of execution and registration of the proposed Sale Deed in respect of Schedule-A property but during the pendency of said process of N.O.C., unfortunately, Jugal Prasad Gupta died on 05.05.2020 and the N.O.C. could not be obtained.

The petitioner further contended that after death of Jugal Prasad Gupta, he visited the house of the O.P.s on many occasions requesting them to mutate their names in the record of rights and co-operate in obtaining land sale permission and thereafter, execute the Sale Deed in his favour, to which though the O.P.s agreed purchased time on this or that pretext. The petitioner further contended that on 05.02.2022, he came to know from a Lot Mandal

(Contd...)

J.
13/05/22
CIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022
(Contd...)

of Borhapjan Gaon the name of Jugal Prasad Gupta was deleted from land records on 05.02.2022, as such on 06.02.2022, the petitioner visited the house of O.P.s and asked for the Jamabandi copy for paying updated land revenue but the O.P. did not furnish the copy and only show the mutation order. The petitioner stated that on issuing mutation, he found only name of O.P. No.1 and O.P. No.4 as recorded pattadars by suppressing the name of O.P. Nos.2, 3, 5 who are daughters of Late Jugal Prasad Gupta but the O.P. No.4 failed to produce any document where the O.P. nos.2, 3 & 5 have waived their vested rights over the land.

The petitioner stated that he is ready and willing to pay the balance consideration amount of Rs.3,50,000/- to the O.P.s on the date of execution and registration of proposed Sale Deed of Schedule-A property but surprisingly came to know on 26.03.2022 that a police case was registered in Doomdooma Police Station lodged by O.P. No.4 Aman Kumar Gupta and on enquiry, the petitioner found that the Ejahar was lodged alleging a false incident alleging the uncle of the petitioner to have criminally intimidated the O.P. No.4. The petitioner further

(Contd...)

13/05/22
CIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022


(Contd...)

stated that on 29.03.202, the O.P. No.4 came to the Schedule-C property along with some stranger and on enquiry by the uncle of the petitioner, the O.P. No.4 expressed his intention to forcefully take over the possession of Schedule-C property by hook or crook.

The petitioner stated that he has already paid a large amount of money i.e. Rs.9,00,000/- in furtherance to the Agreement for Sale and also paid Rs.7,15,500/- as lease amount and is ready to pay the balance consideration amount but the acts and conducts of the O.P.s have cast a cloud over the legal right and subsisting interest of the petitioner over Schedule-C property and thus, his rights and interest have become necessary to be protected by due process of law. The petitioner states that he has a strong prima-facie case and he is in apprehension of being forcefully evicted by the O.P.s and therefore, prays for granting temporary injunction prohibiting the O.P.s and his men from evicting the petitioner from the Schedule-C property and restraining them from making any interference in the possession of the petitioner over the Schedule-C property.

On the other hand, the O.P.s have denied the execution of all the three agreements as referred by

(Contd...)


13/05/22
CIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022

(Contd...)

the petitioner and claims those Agreements to be forged documents and have no legal value as they have not been registered as per law. The O.P.s have denied the receipt of any money from the petitioner by deceased Jugal Prasad Gupta and have also denied the claim of the petitioner that the possession of the Schedule-C land was handed over to the petitioner by Late Jugal Prasad Gupta as per the Agreements dated 30.06.2018 and 24.10.2018 as those documents does not bear any contents of delivery of possession of the tea garden to the petitioner.

The O.P.s have also raised objection that during subsistence of one agreement and without violation of the terms of repayment of the loan amount as the petitioner was also given a Cheque for encashment for equal amount, another agreement was executed as lease agreement which was for a period of 15 years for the same plot of land, which raise suspicion in the whole claim of the petitioner.

The O.P.s have denied the contention of the petitioner that the possession of Schedule-C land was taken over by the petitioner and his uncle and they

(Contd...)

13/05/22
 CIVIL JUDGE
 TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022

(Contd...)

invested huge amount in the garden and were looking after the garden and supplying tea leaves, etc. The O.P.s have stated that no document has been filed by the petitioner reflecting understanding and arrangement between him and Ahmad Raja Khan with respect to the management of tea garden. and supplier green tea leaves by Ahmad Raja Khan in the name of M/s. B.N. Tea Estate since 01.04.2019 and the certificate obtained from B.N. Tea Estate was prepared one day before from filing of the present suit. The O.P.s also states that the said document of B.N. Tea Estate bears no reference number, registration number, GST number, etc. and speaks about supply of tea leaves from the garden of Ahmad Raja Khan in place of the petitioner himself.

The O.P.s denied the contention of the petitioner that Jugal Prasad Gupta during the pendency of process of N.O.C., whereas the N.O.C. was to be issued until 10.04.2020 and Jugal Prasad Gupta died on 05.05.2020 and states that the N.O.C. was not issued because of the fraud played by the petitioner using forged documents. The O.P. have denied of having any transaction of Jugal Prasad Gupta with Ahmad Raja Khan. The O.P.s have also

(Contd...)

13/05/22
CIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022

(Contd...)

denied the contention of the petitioner about his visits to their home on several occasions requesting them to mutate their name in the records of rights and co-operate in obtaining land sale permission and executing the Sale Deed.

The O.P.s are contended that the statements made in Paragraph Nos.3, 4, 5, 6, 7 & 8 by the petitioner are all false and concocted and they have no vested rights claiming relief and the petitioner has failed to prove prima-facie case and also failed to show the balance of convenience is tilted in his favour as well as there exists no urgency in the case for awarding an Order of temporary injunction as prayed by the petitioner. The O.P.s have claimed that the instant petition filed by the petitioner is liable to be dismissed. Further, the O.P.s also stated that the O.P. Nos.2, 3, 5 have already relinquished their rights over the property of their deceased father in favour of their mother and the O.P. No.4 and with their consent the next kin certificate or legal heir certificate was obtained omitting their names.

I have heard the learned counsel of both the sides and have gone through the instant petition and

(Contd...)

13/05/22
CIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022
(Contd...)

the written objections along with plaint and documents available in the case record of the main suit in details.

From the above contentions and counter contentions and documents, it is evident that there is a counter suit filed by the defendants/O.P.s against the petitioners/plaintiffs. In this suit and instant petition, both the parties have claimed of having possession over the suit property which is a land covering 7 Bighas 3 Kathas 18 Lessas as described in Schedule-A and 12 Bighas 2 Kathas 2 Lessas as described in Schedule-B.

It is evident from all the discussions that this suit property has tea cultivation over it and in no manner it will not be possible to compensate either of the parties in terms of money and therefore, I am of the opinion that this is not a fit case for consideration under purview of granting temporary injunction taking note of the golden principle of irreparable loss.

Though there is a prima-facie case for trial but there is no urgency in granting temporary injunction restraining the other side from doing any act as the disputed property is a land having tea cultivation and

(Contd...)

13/05/22
CIVIL JUDGE
TINSUKIA ASSAM

Misc. (J) case No.46 of 2022
(Arising out of Title Suit No.25/2022)

13.05.2022


(Contd...)

in no manner the loss if suffered by either of the parties may not be compensated in terms of money. Taking note of the dispute of claiming right, title, interest and possession over the disputed property by both the parties, I am of the opinion that if status-quo with respect to the suit property is maintained by both the parties, the parties will not be put to any inconvenience and thus they will not suffer any irreparable loss or injury.

I am of the opinion that the dispute needs to be settled in the main suit without putting the parties under any order of restraint until disposal of the main suit.

Thus, considering the above, in order to preserve the subject matter of the dispute and for proper adjudication of the matter, **both the parties are hereby directed to maintain status-quo as on today in respect of the suit property till disposal of the suit and no order for temporary injunction is granted as prayed by the petitioner** and this Misc.(J) case is disposed off on contest

(Dictated)


13/05/22
CIVIL JUDGE
TINSUKIA ASSAM