

Assam Schedule VII Form No.143

DISTRICT – JORHAT

COURT OF : MUNSIFF NO.1, JORHAT

PRESENT: MRS. ACHMA RAHMAN, MUNSIFF NO.1, JORHAT

CASE NO.: Misc.(J) 48/2013

Partha Pratim Dhar–Vs- Shyamal Chandra Das

Sl. No.	Date of order or proceeding	Order or other proceeding	Signature of court	Office action taken on order with date and ex-dated signature of pleaders or parties when necessary
1	2	3	4	5
	23-07-2013	<p>Instant Misc. (J) case is registered in view of petition No.1980/13, filed U/S -94 R/W Sec. 151 of CPC by the plaintiff of T.S. 42/13.</p> <p>Petitioner's case in brief is that, they have filed the Title Suit for declaration and injunction both mandatory and permanent against the O.P./defendant along with a petition U/O 39 Rule 1 & 2, R/W Sec 151 CPC. Considering the urgency of the matter this court was pleased to grant ex-parte temporary injunction against the O.P. restraining him from continuing construction over schedule B and C land as described in the plaint but subsequently the order was vacated, since due to oversight of the office staff caveat application filed by the O.P. was not placed before the court at the time of passing the said ex-parte order. It is further stated that thereafter on 19/7/13, this court heard both the parties on the petition U/O 39 Rule 1 & 2 R/W Sec 151 of CPC and fix 30/7/2013 for order. That while the said petition is pending for disposal O.P. has started illegal construction over the schedule B and C land by employing large nos. of masons and workers with an intention to complete the entire construction before the date fixed for final order on the injunction petition.</p> <p>It is further stated that if the O.P. is allowed to continue the construction till the date of passing order, the very purpose of the suit of the plaintiff/ petitioner as well as the ends of justice shall be defeated and as such the instant petition is filed to restrain the O.P. till passing order in Misc. (J) case No.40/13.</p>		

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		<p>Heard the petitioner. Ld engaged counsel for the O.P. received the copy of petition but inspite of several call made through the office staff of this court he does not appeared for hearing. Perused the available materials on record which reveals that the Misc. (J) case No.40/13 filed U/O 39 Rule 1 & 2 CPC is pending for disposal and this court has fixed 30/7/2013 for passing order on the Misc. (J) case.</p> <p>Since after hearing both the parties this court has fixed the date for finally adjudicating the injunction matter, hence, without going through the merit of the injunction petition, considering the emergent nature of the case, I deem it fit and proper to restrain the O.P. from changing the nature and character of the suit property till final disposal of the injunction petition.</p> <p>Accordingly, order is passed restraining the O.P./defendant from undertaking any further construction over Schedule B, the private road and Schedule C, as described in the schedule of the plaint till passing the final order in Misc. case No.40/13. Copy of this order be served to the O.P.</p> <p>Misc (J) case is accordingly disposed off.</p>		

**Munsiff No.1,
Jorhat**