

GAHC010288482023



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

Case No. : Cont.Cas(C)/786/2023

JAYANTA ROY
S/O LATE JIBON ROY, R/O CACHAR HIGH SCHOOL ROAD, MALUGRAM,
P.S.-SILCHAR, DIST-CACHAR, ASSAM, PINCODE-788002

VERSUS

M A MAZUMDAR, ACS
DISTRICT REGISTRAR CACHAR (REGISTRATION SILCHAR), PIN CODE-
788001

Advocate for the Petitioner : MR. S K GHOSH

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 22-12-2023

Heard Mr. S.K. Ghosh, learned counsel for the applicant.

2. By filing this application under section 10/11/12 of Contempt of Court Act read with Article 215 and 227 of the Constitution of India. The petitioner has alleged willful and deliberate violation of Judgment and decree dated

21.12.2022, passed by the learned Civil Judge No. 2, Cachar at Silchar in T.S. No.130/22.

3. The petitioner who is the decree holder in Title Suit No. 130/2022 is holding a decree passed in the said suit whereby the defendants in the said suit were directed to perform their part of contract and register of final sale deed in respect of the suit property in favour of the petitioner-plaintiffs and they were directed to deliver khas possession of the suit land to the petitioner. The decree was put to execution by filing Title Execution case No. 3/2023 and in the said proceeding by order dated 15.05.2023, the learned Executing Court had directed the petitioner/decreed holders to deposit the requisite fees for registration in the office of the District Registrar for receipt of sale deed after registration and a date was fixed. The said order was communicated to the office to the District Registrar, Cachar and the Deputy Registrar, Cachar by letter dated 16.05.2023 sought for extension of two months time regarding registration of decreetal sale deed.

4. Thereafter, the learned Executing Court, by order dated 20.05.2023, granted 15 days time for registration of decreetal sale deed fixing another date on receipt of decreetal sale deed after registration. And thereafter, by an order dated 15.06.2023, the learned Executing Court by rejecting the contempt petition filed by the petitioner,, a copy of the said order was sent to the Deputy Registrar (Registration) for necessary action, fixing another date for receipt decreetal sale deed for registration. Thereafter, District Registrar Cachar (Registration) Silchar by a letter dated 25.07.2023 informed the learned Executive Court as follows :

“To,

The Hon'ble Civil Judge No. 2

Cachar, Silchar

Sub : Regarding registration of Decreetal sale deed in Title Execution Case No. 03. of 2023.

Ref : 1. Hon'ble District Judge's letter

No. JCDI/19/2023/4074 dated 04.07.2023

2. Your letter Memo No. CJ(2)/SIL/2023/108 Dated 16.05.2023.

3. Your order dated 20.05.2023.

4. This office letter No. F- 25(a)/Part-1/2023/385 dated 16.05.2023.

5. This officer letter No. F-25(a)/Part-I/2023/431 dated 29.05.2023

Sir Madam,

With reference to the above cited subject, I have the honour to inform you that as per report of the concerned A.S.O the name of seller and father's name of the Seller is not found in record.

Moreover, no class of land is mentioned in the schedule of the deed for which the zonal valuation approved by the Principal Secretary Revenue & D.M. Department can not be ascertained and therefore Decreetal sale deed in the Title Execution Case No. 03/2023 is not registrable as per Section 27(a) of Assam Amendment Act, 2004 of Stamp Act.

This is for favour of your kind Information and necessary action.

ours faithfully

(M.A. Mazumdar, ACS)
District Registrar, Cachar
(Registration) Silchar".

5. As the Court is presently exercising contempt jurisdiction, the Court has refrained from examining the merit of the communication dated 25.07.2023, issued by the District Registrar, Cachar (Registration) Silchar.

6. Nevertheless, the Court has taken note of the contents of the said letter which has been extracted hereinbefore. The said authority has given an explanation of why the registration cannot be done as per the Provision of Assam Amendment Act, 2004 of the Stamp Act.

2. In view of the explanation forwarded by the District Registrar, Cachar, Silchar vide the said communication dated 25.07.2023, the Court does not find that this is a case of deliberate and willful violation of the order passed by learned Executing Court.

3. Having said so, the Court is of the considered opinion that notwithstanding that the Court is not inclined to entertain this Contempt application, yet it will be open to the petitioner to make challenge to the communication in appropriate Court/forum and it is provided that the this order shall not be a bar to the petitioner make a challenge to the said communication in the event there are aggrieved by the communication dated 25.07.2023, issued by the District Registrar, Cachar (Registration) Silchar.

4. This contempt petition stands closed.

JUDGE

Comparing Assistant