

GAHC040005302024



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

Case No. : CRP/15/2024

Absolute Build Concept Private Limited
represented by its Managing Director Shri Manikonda Srinivasa Kumar Son of Late
M V Krishna Rao, Bangalore, No. 1417, 3rd Block East, Jayanagar, Bangalore,
Karnataka

VERSUS

Mibom Pertin
Son of Late Gora Pertin, sole proprietor of M/s Shantipur Filling Station, PO Roing,
PS Shantipur, Lower Dibang Valley District, Arunachal Pradesh

Advocate for the Petitioner : Himanku Baruah, Hage Tai, Deepak Kumar Gupta

Advocate for the Respondent : Tony Pertin, Eddie Payeng, H K Jamoh

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 10-09-2024

Heard Mr. D. K. Gupta, learned counsel for the petitioner. Also
heard Mr. T. Pertin, learned counsel for the sole respondent.

2. This revision petition has been filed under Article 227 of the
Constitution of India challenging the order dated 18.03.2024 passed

by the learned Civil Judge (Sr. Division), Lower Dibang Valley District, Arunachal Pradesh in Money Suit No. 02/2023.

3. The petitioner is the defendant before the trial court. The proceeding was a summary proceeding.

4. The petitioner being the defendant had entered appearance and also filed an application under Order 7 Rule 11 of the Code of Civil Proceeding praying for rejection of the plaint.

5. The learned trial court rejected the prayer of the petitioner for condonation of delay and posted the case for hearing.

6. I have considered the submissions made by the learned counsel for both the sides.

7. After going through the impugned order, this Court finds that the learned trial court had failed to comply with the provision of law as laid down in the Order XXXVII Rule 3 (4) of the Code of Civil Procedure. Therefore, impugned order is bad in law. Accordingly, the impugned order is set aside. The case is remanded to the trial court to start the proceeding from the stage of Order XXXVII Rule 3 (4) of the Code of Civil Procedure.

8. It is also directed that before proceeding further with the Money Suit, the Court shall dispose of the petition under Order 7 Rule 11 of the Code of Civil Procedure.

9. Both the parties are directed to appear before the trial Court on 4th October'2024 for proceeding further.

10. With the aforesaid direction, the revision petition stands disposed of.

JUDGE

Comparing Assistant