

GAHC040012202022



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

Case No. : RFA/2/2022

Chukhu Balu
Proprietor of M/s Chukhu Bablu Construction Village Gumto PO/PS Doimukh,
District Papum Pare, Arunachal Pradesh.

VERSUS

Tosu Borang
S/o Late Peper Borang,
Upper DST Colony, PO/PS Pasighat, East Siang District, Arunachal Pradesh.

Advocate for the Petitioner : B Arun, Tana Tony, Taba Taison

Advocate for the Respondent : T T Tara, D Loyi, Gamken Bam, Terji Kamchi, Kirmani Lollen, Khoda Apa

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

10.12.2024

Heard Mr. T. Tony, learned counsel for the appellant and Mr. T.T. Tara, learned counsel for the respondent.

2. In this appeal, under Section 96 read with Order XLI Rule 5 of the C.P.C., the appellant has put to challenge the correctness or otherwise of the Judgment and Decree dated 29.08.2022, passed by the learned Civil Judge (Senior Division), Pasighat, in Money Suit No. 05/2014.

3. It is to be noted here that vide impugned Judgment dated 29.08.2022, the learned Civil Judge (Senior Division), Pasighat has decreed the suit, directing the appellant herein to pay a sum of Rs. 14,46,757/- (Fourteen Lacs Forty-six Thousand Seven Hundred Fifty-seven) with interest @ 6% per annum from the date of filing of the suit, till full and final realization and also directed to pay a sum of Rs. 50,000/- (Fifty Thousand) being the litigation expenses to the respondent herein from the date of filing of the suit.

4. Mr. Tony, learned counsel for the appellant submits that the appellant is ready to pay the decretal amount and the same has already been deposited before the Registry of this court. However, Mr. Tony submits that the grievance of the appellant is that the interest ought to have been given from the date of decree instead of the date of filing of the suit. Therefore, Mr. Tony has contended that the interest amount has to be computed @ 6% from the date of decreeing the suit. Mr. Tony further submits that the appellant is not at all responsible for the delay in trial of the suit and that the respondent had filed as many as five Miscellaneous cases and in disposal of the said cases delay had occurred.

5. Per-contra, Mr. Tara, learned counsel for the respondent submits that the judgment and decree so passed by the learned trial court is a consent decree and that no appeal lies against the consent decree. Mr. Tara further submits that as per his instruction, the respondent is ready to give some concession in respect of the interest and as such, he will not claim interest for two consecutive years from the date of filing of the suit.

6. The learned counsel for the appellant also agreed to the same, however, he insisted upon giving concession of interest for one more year.

7. The submission of learned Advocate of both sides received due consideration of this court.

8. Though the appellant herein agreed to give concession of interest for a period of two years, yet, taking note of the facts and circumstances on the record, this court is of the view that end of justice would be meted out if concession of one more year is added to the two years, to which the respondent has already agreed upon.

9. Accordingly, as agreed upon by the parties and without going into the merit of the same, this court is inclined to dispose of this appeal. It is provided that while computing the interest from the date of filing of the suit till realization, a period of 3 (three) years shall be exempted from the total period. The impugned judgment and decree stands modified to the extent indicated above.

10. Send down the record of the learned trial court with a copy of this order. The parties have to bear their own cost.

Comparing Assistant

JUDGE