

GAHC010084202023



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

Case No. : CRP(IO)/109/2023

M/S. HOTEL PRADEEP
A PARTNERSHIP FIRM HAVING REGISTERED OFFICE AT C 27/153
JAGATGANJ VARANSI PIN 221002 UTTAR PRADESH REP. BY ITE
EXECUTIVE PARTNER SHRI PRADEEP NARAYAN SINGH AGED ABOUT 59
YEARS SON OF C- 27/11-C JAGATGANJ VARANASI P.O MAHAMANDAL P.S.
CHETGANJ UTTAR PRADESH PIN 221002

VERSUS

M/S CSA SANNA VAIBHAV HOSPITALITY LLP
A REGISTERED LTD LIABILITY PARTERSHIP FIRM HAVING ITS
REGISTERED OFFICE AT C/O MOGNARO IMCHEN 17 AOIMKUM DIMAPUR
PIN 797112 NAGALAND CORPORATE AND CORRESPONDENCE OFFICE AT
250 FIRST FLOOR OKHLA INDUSTRIAL ESTATE PHASE III NEW DELHI-
110020

Advocate for the Petitioner : MR G RAHUL
Advocate for the Respondent : FOR CAVEATOR

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

04.06.2024

Heard Mr. G. Rahul, learned counsel appearing for the petitioner. Also heard Mr. M.K. Choudhury, learned senior counsel representing the sole respondent.

2. This is an application under Article 227 of the Constitution of India challenging the order dated 18.03.2023 passed by the learned Additional District Judge No.5, Kamrup (Metro) at Guwahati in Misc. (J) Case No.15/2023 arising out of Money Execution (Arbitration) Case No.95/2023.

3. The present petitioner is the judgment debtor in respect of Misc.(J) Case No.15/2023. Notice was issued to the present petitioner by post and through e-mail. The court below considered the postal consignment tracking report and the said notice was deemed to have been served upon the petitioner.

4. The court below also held that the notice that was sent through e-mail was also served.

5. The petitioner submits that no such notice or e-mail was lawfully served upon it.

6. Mr. Choudhury has submitted that since the petitioner is aggrieved by the fact that no notice was served upon it, the court may allow their prayer by giving them an opportunity to contest the proceeding before the court below.

7. Mr. G. Rahul, learned counsel appearing for the petitioner has submitted that the court below should be directed to issue fresh notice upon the petitioner.

8. I have considered the submissions made by the learned counsel of both sides.

9. I am of the considered opinion that the petitioner should be given an opportunity to contest the execution proceeding before the court below. Therefore, the impugned order dated 18.03.2023 is set aside.

10. Since the petitioner has approached this Court challenging the order dated 18.03.2023, no fresh notice is required to be issued to them by the executing court.

11. Both sides are directed to appear before the executing court on 24.06.2024. The court below shall give opportunity to the judgment debtor to contest the proceeding. Thereafter, the court below shall proceed to dispose of the matter in accordance with the procedure as prescribed by law.

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

JUDGE

Comparing Assistant