

GAHC010098662024



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

Case No. : CRP(IO)/171/2024

BISWAJYOTI DEV
S/O- SRI BADAL CHANDRA DEV, R/O- NO.1 BALIJAN, BAKALIAGHAT, P.O.
AND P.S. BAKALIAGHAT, DIST. KARBI ANGLONG, ASSAM, PIN- 782482.

VERSUS

LAKSHESWAR SARMAH
S/O- LATE SAT RAM SARMAH, R/O- ATIGAON, BAKALIAGHAT, P.O. AND
P.S. BAKALIAGHAT, DIST. KARBI ANGLONG, ASSAM, PIN- 782482.

For the Appellant(s) : Mr. N. Kalita, Advocate

For the Respondent(s) : Mr. P. Deka, Advocate.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 19.06.2024

Heard Mr. N. Kalita, the learned counsel appearing on behalf of the Petitioner and Mr. P. Deka, the learned counsel appearing on behalf of the Respondent.

2. The instant application has been filed challenging the order dated

15.02.2024 passed in Title Suit No.9/2019 whereby the learned Trial Court i.e. the Court of the learned Civil Judge, (Junior Division) No.2, Karbi Anglong, Diphu had rejected the said application filed by the Petitioner who is the Defendant in the suit under Order XI Rule 14 of the Code of Civil Procedure, 1908 for calling for the originals of the agreement dated 22.01.2009 or to allow the defendant to adduce evidence on the basis of photocopy of the agreement dated 22.01.2009 as secondary evidence.

3. It is seen that the Respondent herein who is the plaintiff had filed a written objection through his advocate. Be that as it may, the learned Trial Court vide the order dated 15.02.2024 rejected the said application on the ground that there is no dispute as regards agreement of tenancy dated 22.01.2009 inasmuch as the main dispute in the suit arises as to when the defendant stopped paying the rents after July, 2018.

4. This Court has duly taken note of the written statement filed by the Petitioner herein wherein in paragraph No.10(a), he categorically mentioned about the agreement dated 21.01.2009. In addition to that, in paragraph No.28, it has also been categorically mentioned that original copy of the rent agreement dated 22.11.2009 and 11.08.2016 are in the custody of the plaintiff. Specific leave was also sought for vide the said paragraph for calling for the originals of the two agreements dated 22.11.2009 and 11.08.2016 at the time of evidence. It is in consonance with the said, the application was filed under Order XI Rule 14 of the Code. The learned Trial Court however rejected the said application on the ground of relevance without the said document being brought on record. Under such circumstances, this Court interferes with the order

dated 15.02.2024 and directs the learned Trial Court i.e. the Court of the learned Civil Judge (Junior Division), Karbi Anglong at Diphu to decide afresh the Petition No.401/2023 after duly taking note of the observations so made.

5. With above observations and directions, the instant petition stands disposed of.

6. The parties have duly informed that the next date fixed before the learned Trial Court is on 21.06.2024.

7. The Petitioner is directed to produce a certified copy of the instant order before the learned Trial Court for further proceedings of the suit.

JUDGE

Comparing Assistant