

GAHC010140332023



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

Case No. : CRP(IO)/189/2023

RAVINDER PAL SINGH SAHNI
S/O- LATE SARDAR TRILOCHAN SINGH SAHNI ,
R/O- HOUSE NO- 15,
GMCH ROAD, BHANGAGARH, NANAK NAGAR, GUWAHATI-05, KAMRUP
(M), ASSAM

VERSUS

RAVINDER SINGH
S/O- LATE KARAM SINGH ,
R/O- C/O- HAMDARD, ENGINEERING WORKS, TOKOBARI, AT ROAD,
GUWAHATI-01, KAMRUP (M), ASSAM

Advocate for the Petitioner : MR. R K BHUYAN, MR. M KASHYAP, MR. D K DAS

Advocate for the Respondent : MR B PATHAK, MR. B BARMAN

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

03.09.2024

Heard Mr. R.K. Bhuyan, learned counsel for the petitioner and also heard Mr. B. Pathak, learned counsel for the respondent.

2. In this civil revision petition, under Article 227 of the Constitution of India, the petitioner has put to challenge the correctness of the order, dated 21.10.2020, passed by the learned Civil Judge No.1, Kamrup (M), Guwahati, in Title Suit No.361/2005.
3. The grievance of the petitioner, being sought to be addressed in this petition is adumbrated herein below:-

"The petitioner, as plaintiff, has instituted a title suit, being Title Suit No.361/2005, against the respondent herein, seeking relief of ejectment, recovery of possession, realization of arrear rent as well as for declaration of right, title and interest. Then, after hearing both the parties, the learned Trial Court had dismissed the said suit. Being aggrieved by the dismissal of the said Title Suit, the petitioner had preferred an appeal, being Title Appeal No.1/2012 before the Court of learned Additional District Judge (FTC) No.4, Kamrup(M), Guwahati, along with a petition under Order 41 Rule 27, read with Section 151 of the Code of Civil Procedure to produce additional documentary evidence. The First Appellate Court, after hearing both the parties, had allowed the appeal by setting aside the judgment and decree, so passed by the learned Trial Court. Against the said judgment of the Appellate Court, the respondent herein had preferred one regular second appeal, being RSA No.90/2016, before this Court and the petitioner also submitted a cross-objection in the said RSA No.90/2016, which was registered as Cross Objection No.15/2016. After hearing both the parties, this Court was pleased to dispose of the said RSA by remanding the matter to the First Appellate Court to decide it afresh.

Thereafter, the learned First Appellate Court had framed two additional issues and remanded the matter to the Trial Court with a direction to give opportunities to both the parties to adduce evidence on these two issues and to send the finding on the said additional issues to the First Appellate Court. Thereafter, the Trial Court, vide impugned order dated 21.10.2020, has fixed the matter on 15.02.2021, for submission of sale deed by the plaintiff/present petitioner, ignoring the specific direction of the First Appellate Court to give

opportunities to both the parties to led evidence with further observation that the plaintiff and the defendant can rely their own documents on those issues. But, the learned Trial Court without going through the direction and observation of the First Appellate Court has passed the impugned order directing the plaintiff to produce only the sale deed along with his evidence-in-chief.”

4. Mr. Bhuyan, learned counsel for the petitioner submits that the impugned order is illegal and arbitrary and passed in contravention of the direction issued by the First Appellate Court, wherein the First Appellate Court has directed to afford opportunities to both the parties to led evidence on the two issues, framed by it but, the learned trial court had allowed to and as such, Mr. Bhuyan submits that unless the petitioner is allowed to produce other documents also along with the sale deed he will be seriously prejudiced. Therefore, Mr. has contended to set aside the impugned order and to remand the matter back to the trial court.

5. On the other hand, Mr. Pathak, learned counsel for the respondent submits that the matter may be remanded to the Trial Court with a direction to afford opportunities to both the parties to lead their evidence on a fixed date strictly in terms of the direction of the learned First Appellate Court.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the impugned order, dated 21.10.2020, and also the judgment of the First Appellate Court in Title Appeal No.1/2012, dated 23.12.2019.

7. It is to be noted here that in the said judgment in paragraph 16, the learned First Appellate Court had framed two additional issues and remanded the matter back to the learned Trial Court to give opportunities to both the parties to adduce evidence on these two issues and to send the finding on those two additional issues to that Court. But, it appears from the order impugned that the learned trial court had directed the petitioner to produce the sale deed only.

8. Thus, having carefully gone through the direction, so issued by the learned First Appellate Court in the judgment dated 23.12.2019, in paragraph 16, and also going through the order of the learned Trial Court dated 21.10.2020, this Court is of the considered opinion that that allowing the petitioner to submit only the sale deed vide impugned order dated 21.10.2020 is contrary to the direction issued by the First Appellate Court in the judgment and order dated 23.12.2019. In that view of the matter, the impugned order appears to be illegal and arbitrary and liable to be set aside and accordingly, the same stands set aside.

9. The matter is remanded to the learned Trial Court with a direction to afford opportunities to both the parties to lead their evidence and to produce such documents, as permissible under the law, on a fixed date, strictly in terms of the direction of the learned First Appellate Court. It is submitted at the Bar that the matter has already been fixed before the Trial Court.

10. Accordingly, both the parties shall appear before the learned Trial Court on that day and led evidence in accordance with the direction issued by the learned First Appellate Court in the judgment and order dated 23.12.2019.

11. In terms of above, this civil revision petition stands disposed of. Interim order, if any, stands recalled.

Sd/- Robin Phukan
JUDGE

Comparing Assistant