

GAHC010168352022



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

Case No. : CRP(IO)/198/2022

GYASUDDIN AHMED
S/O. LT. ANWARUDDIN AHMED, R/O. C/O. ENVER PLANTATION PVT. LTD.,
RATANPUR, P.O. C.R. BUILDING, P.S. AND DIST. DIBRUGARH, ASSAM.

VERSUS

NIZAMUDDIN AHMED
S/O. LT. ANWARUDDIN AHMED, C/O. LEIK TEA ESTATE, RATANPUR, P.O.
C.R. BUILDING, P.S. AND DIST. DIBRUGARH, ASSAM.

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV

Advocate for the Respondent : MR K KHANNA

PRESENT

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Petitioner : Mr. P.J. Saikia,
Senior Advocate.

For the Respondent: Mr. R. Sarma,
Advocate.

Date of Hearing : 11.06.2024.

Date of Judgment : 16.07.2024.

JUDGMENT AND ORDER(CAV)

Heard Mr. P.J. Saikia, learned senior counsel representing the petitioner as well as Mr. R. Sarma, learned counsel appearing for the respondent.

2. This is an application under Article 227 of the Constitution of India challenging the order dated 11.07.2022 passed by the learned Civil Judge, Dibrugarh in Money Suit No.23/2016.
3. The respondent is the own brother of the present petitioner. The respondent filed a Money Suit before the trial court for recovery of a sum of ₹29,50,091/- from the present petitioner.
4. The petitioner being the defendant filed his written statement.
5. The respondent examined some witnesses also.
6. At that stage, the petitioner being the defendant before the trial court, filed an application under Order VIII Rule 1A (3) of the Code of Civil Procedure praying for leave to introduce four number of documents. The trial court refused to grant the leave.
7. The trial court held that the petitioner being the defendant was not diligent enough to mention about these documents and therefore, he cannot be allowed to come out with a surprise.
8. I have considered the submissions made by the learned counsel of both sides.
9. While considering Order VIII Rule 1A (3) of the Code of Civil Procedure, in SUGANDHI (dead) by Lrs. & ANR. Vs. P. RAJKUMAR REPRESENTED BY HIS POWER AGENT IMAM OLI, vide Civil Appeal No.3427/2020 (Arising out of S.L.P.(C) No.16491 of 2019 dated October 13, 2020), the Supreme Court has held as under:

“It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub-rule (3).”
10. I have found that the trial court has considered the relevancy of the documents intended to be introduced by the defendant/petitioner, that too without any evidence.

11. It is a settled principle of law that the rules of procedure are handmaid of justice and therefore, even if there is some delay, the trial court should have imposed some costs rather than to decline the production of the documents themselves.

12. Consequently, the revision petition is allowed.

13. The impugned order is set aside. The trial court is directed to accept the four documents intended to be introduced by the present petitioner. Thereafter, the trial court shall expeditiously dispose of the suit in accordance with the procedure as laid down by law.

The petition is disposed of accordingly.

JUDGE

Comparing Assistant