

GAHC010189132022



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

**Case No. : CRP(IO)/216/2022**

SHANKAR LAL BHAJANKA  
S/O LT. RAM KUMAR BHAJANKA, R/O BHAJANKA BHAWAN, CRISTIAN  
BASTI G.S. ROAD, GUWAHATI-5 DIST. KAMRUP (M) ASSAM,

VERSUS

DELIGHT CONSTRUCTION PRIVATE LTD. AND ANR.  
A COMPANY REGISTERED UNDER THE COMPANIES ACT HAVING ITS  
PLACE OF BUSINESS AT SHOP NO. 20 BHAJANKA MARKET CHRISTIAN  
BASTI, G.S. ROAD P.S DISPUR DIST. KAMRUP (M) GUWAHATI-781005  
ASSAM

2:BIJAN DASTDAR  
S/O LT. ANIL KUMAR DASTIDAR MANAGING DIRECTOR OF DELIGHT  
CONSTRUCTION PRIVATE LTD. HAVING ITS PLACE OF BUSINESS AT SHOP  
NO. 20 BHAJANKA MARKET CHRISTIAN BASTI  
G.S. ROAD P.S DISPUR DIST. KAMRUP (M) GUWAHATI-781005 ASSA

For the Applicant(s) : Mr. G. Khandelia, Advocate

For the Respondent(s) : Mr. U. Sarma, Advocate

**BEFORE**  
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 27.03.2024**

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

20.05.2022 passed in Title Suit No.214/2018 by the Munsiff No.3, Kamrup (M) at Guwahati.

2. A perusal of the said order reveals that an application was filed by the plaintiff informing the Court that there were certain mistakes while recording the evidence and as such he sought for re-examination for the purpose of clarifying the said mistakes.

3. This Court had heard the learned counsel appearing on behalf of the Petitioner who submitted that the mistakes which had occurred was on account of an oversight which the plaintiff did not see at the time of signing the deposition. However, on the next date, when this aspect was noticed while perusing the records, the application was immediately filed for seeking re-examination of the Plaintiff Witness No.1.

4. This Court had duly perused the said application filed before the learned Trial Court and to the surprise of this Court, the said application though sought judicial determination with a prayer for re-examination of the PW-1 but the same was not in consonance with Order VI Rule 15(4) of the Code as well as Rule 16 of the Civil Rules and Orders as framed by the High Court.

5. From the materials on record, this Court is of the opinion that the petitioner/plaintiff is required to be given an additional opportunity so that an application can be filed properly thereby drawing the attention of the learned Trial Court about the mistakes and also seeking the prayer for re-examination. Under such circumstances, this Court interferes with the impugned order dated 20.05.2022 passed in Title Suit No.214/2018 and further grants the liberty to the Petitioner to file an application before the learned Trial Court on the next date so fixed by this Court seeking re-examination of the Plaintiff Witness No.1.

6. This Court observes that in the circumstance, such an application is filed, the learned Trial Court shall duly consider the same taking into account that the right of re-examination is implicit in the Indian Evidence Act, 1872.

7. This Court has also taken note of that vide an order dated 19.09.2022, the further proceedings of Title Suit No.214/2018 was stayed and the said stay order is in operation. The said stay order stands vacated and the parties are directed to appear before the learned Trial Court on 19.04.2024. The petitioner/plaintiff is given the liberty to file the application seeking re-examination as per the provisions of law on or before the next date i.e. 19.04.2024. Failing to do so, this Court observes that the order dated 20.05.2022 would stand revived.

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

**JUDGE**

**Comparing Assistant**