

GAHC010205532023



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

Case No. : CRP(IO)/290/2023

MD. MAMAT ALI
S/O LATE MANJUR ALI, R/O VILL- GARIGAON, FAKIRPARA, GUWAHATI,
P.S.-JALUKBARI, DIST- KAMRUP, ASSAM, PIN-781012

VERSUS

SMTI. TRIPTI DAS
W/O SRI MANOJ KUMAR DEKA, R/O DALIBARI, P.S.-HAJO, DIST-KAMRUP
(M), ASSAM

Advocate for the petitioner(s): Mr. R Sarma

Advocate for the respondent(s): Mr. KM Hassan

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

27.05.2024

This is an application under Article 227 of the Constitution challenging the order dated 17.08.2023 passed in Title Execution No.58/2019 whereby the learned Executing Court i.e. the Court of the learned Civil Judge No.1 Kamrup (M) Guwahati had directed the Disbursing Officer of the Office of the Executive Engineer, West Guwahati Territorial Road Division, Fancy Bazar, Guwahati to withhold an amount of Rs.30,000/- from the salary of the petitioner and deposit the said amount before the Court for a period of 48 months.

2. This Court has heard the learned counsel appearing on behalf of the petitioner as well as the learned counsel appearing on behalf of the respondent.

3. From a perusal of the impugned order as well as the submissions made by the learned counsels appearing for the parties, it transpires that the petitioner is liable to pay an amount of Rs.13,98,000/- to the respondent in terms with the decree so passed dated 09.07.2019 in Title Suit No.381/2014.

4. The counsel appearing on behalf of the petitioner had submitted that the petitioner would not be in a position to survive, if the said order is not interfered with. He submits that the learned Executing Court ought not to have directed withholding of Rs.30,000/- from the salary of the petitioner, instead could have taken into account the petitioner's inconvenience and ought to have lessen the said amount.

5. This Court upon perusal of the impugned order dated 17.08.2023 does not find any jurisdictional error to interfere with the impugned order, more so, taking into account that the petitioner had duly taken the said amount of Rs.13,98,000/- from the respondent and by the decree of the Court, the petitioner was liable to pay the same. The exercise of jurisdiction made by the learned Trial Court was in accordance with the provisions of the Code of Civil

Procedure, 1908 and as such, there being no jurisdictional error, this Court finds no good ground for interference, for which the instant petition stands dismissed.

6. The interim order dated 09.10.2023 stands vacated and the learned Executing Court i.e. the Court of the learned Civil Judge No.1, Kamrup(M) at Guwahati shall further proceed with the execution proceedings being Title Execution No.58/2019 in accordance with law.

7. Taking into account that both the parties are duly represented before this Court, they are directed to appear before the learned Executing Court on 19.06.2024.

8. With the above, the revision petition stands disposed of.

JUDGE

Comparing Assistant