

GAHC010284832023



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

Case No. : CRP(IO)/435/2023

ROAD KINGS PRIVATE LTD
A PRIVATE LIMITED COMPANY, REPRESENTED BY ITS DIRECTOR, SRI
ANIL AGARWAL, AGED ABOUT 50 YEARS HAVING ITS OFFICE AT
MALLICK COMPOUND, RAILWAY GATE NO. 5, A.T. ROAD, GUWAHATI-
781001, DIST- KAMRUP (M), ASSAM

VERSUS

BABULAL SARAWGI
S/O LATE SUGAN CHAND SARAWGI, HAVING ITS OFFICE AT AMAR POINT,
S.R.C.B. ROAD, FANCY BAZAR, GUWAHATI-781001, DIST-KAMRUP (M),
ASSAM

For the Appellant(s) : Mr. A. Sattar, Advocate

For the Respondent(s) : Mr. S. J. Sharma, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 26.06.2024

This is an application filed under Article 227 of the Constitution
challenging the order dated 30.09.2023 passed by the Court of the

learned Civil Judge (Senior Division) No.3, Kamrup (M) at Guwahati whereby the written statement filed by the Petitioner who is the Defendant in the suit was struck off on the ground that the person who filed the written statement was not authorized by the Petitioner company i.e. the Defendant in the suit.

2. This Court has duly taken note of that in the plaint, the Defendant has been described as "Road Kings Private Limited. A Private Limited Company. Represented by its Director Sri Anil Agarwal, having its office at Mallick Compound, Railway Gate No.5, A.T. Road, Guwahati – 781 001, District- Kamrup (M), Assam."

3. In pursuance to the summons being served, the said Shri Anil Agarwal filed his written statement on behalf of the Defendant Company. The suit thereupon progressed by framing of issues and was fixed at the stage of pre-emptive hearing. An application was filed that the said Shri Anil Agarwal was not the Director of the Defendant Company and had also no authority to file the written statement and accordingly sought for striking out the defence of the Defendant. On the basis of the said application, the impugned order dated 30.09.2023 was passed whereby the defence of the Defendant was struck off. It is against that, the instant petition has been filed.

4. This Court duly takes note of Annexure-7 enclosed to the instant petition. The contents of Annexure-7 is reproduced herein below:

"TO WHOM IT MAY CONCERN

This is to certify that Sri Anil Agarwal, S/O. Late Madan Lal Agarwal, Resident of Mallick Compound, A.T. Road, Guwahati – 781001, in the district of Kamrup (M), Assam was/is a Director of Road Kings Pvt. Ltd. Since the year

2017 by DIN No.00402373 as is appearing in the company Master Data dated 05.04.2017 and we hereby acknowledge that all the works done by him for and on behalf of the company at Guwahati is done at the best of the company and we, being the other Directors, do ratify the same including the works done by him in the courts at Guwahati for an on behalf of the company.”

5. From a perusal of the above quoted resolution and certification done by the Directors of the Defendant, it appears that the Defendant company had duly accepted that Shri Anil Agarwal was/is a Director of the Defendant Company and since 2017, his name has been appearing in Master Data dated 05.04.2017. In addition to that, the Defendant Company had also acknowledged and ratified all works done by Sri Anil Agarwal for and on behalf of the Defendant Company at Guwahati including the works done by him in the courts at Guwahati for an on behalf of the company.
6. Taking into account the contents of the said document, this Court accepts that Shri Anil Agarwal was duly authorized by the Defendant Company to file the written statement and as such any consequence which would fall upon the Defendant Company in view of the written statement filed by Shri Anil Agarwal is also accepted by the Defendant Company. Accordingly, this Court interferes with the order dated 30.09.2023 whereby the written statement filed by the defendant company was struck off.
7. Taking into account the above, this Court therefore vacates the interim order dated 22.05.2024 whereby the further proceedings of Title Suit No.441/2018 was stayed.
8. As both the parties are duly represented, they are directed to appear

before the learned Trial Court on 30.07.2024.

9. The Registry shall forthwith return the LCR to the Court of the learned Civil Judge (Senior Division) No.3, Kamrup (M) at Guwahati so that on the next date so fixed by this Court, the said records are available before the learned Trial Court. In that regard, the Registry may also employ the service of a special messenger.

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

JUDGE

Comparing Assistant