

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak
And**

The Hon'ble Justice Md. Shabbar Rashidi

FA 452 of 2025

**Tapas Kumar Ghosh
Vs.
Sri Ranjan Kumar Ghosh**

For the Appellant : Mrs. Shohini Chakrabarty, Advocate
Ms. Prajaaini Das, Advocate

For the Respondent : Mr. Dibyajyoti Raha, Advocate
Mr. Kuntal Banerjee, Advocate

Hearing & Judgment on : **June 9, 2026**

DEBANGSU BASAK, J.:-

1. Appeal is directed against the judgment and decree dated August 29, 2022 passed in M.S. No.05 of 2020.
2. By the impugned judgment and decree, learned Trial Judge decreed the suit for damages on the ground of malicious prosecution.
3. Learned Advocate appearing for the appellant submits that, the appellant was not served with the writ of summons of the suit. She submits that, appellant filed an application under Order 9 Rule 13 of the Code of Civil Procedure, 1908 which is pending.

4. Learned Advocate appearing for the appellant submits that, the impugned judgment and decree does not contain any reasons as to why the decree was passed. She draws the attention of the Court to the contents of the judgment and decree.
5. Learned Advocate appearing for the respondent submits that, the learned Trial Judge considered the testimony of the plaintiff witnesses and the unchallenged exhibited documents and proceeded to pass the decree. He submits that, the plaintiff examined three witnesses and tendered various documents at the trial.
6. We find from the records that, the suit for damages for malicious prosecution was taken up for *ex parte* hearing on August 29, 2022. Plaintiff in the suit examined three witnesses. Plaintiff also tendered various documents which were marked as Exhibits at the trial.
7. In the impugned judgment and decree, learned Trial Judge recorded as follows:

“Considering the unchallenged testimony of the P.Ws. and the unchallenged exhibited documents, I am inclined to hold that the Plaintiff has proved his allegation ex-parte.”

8. The learned Trial Judge, in our opinion, did not evaluate the testimony of the plaintiff witnesses or the documents which were marked as Exhibits at the trial. At least, the judgment and decree does not disclose that the

learned Trial Judge evaluated the same and spoke on such evaluation through impugned judgment and decree.

9. It is trite law that the reasons are the heartbeat of any judgment and order. Absence of reasons in the judgment and decree renders the same as a nullity. The learned Trial Judge failed to discuss the circumstances resulting in the decree passed.
10. In the facts and circumstances of the present case, we do not find that the learned Trial Judge ascribed any reasons as to why the learned Trial Judge considered the testimony of the plaintiff witnesses and the unchallenged documents to be sufficient to pass the decree as done.
11. Purely on the ground that the impugned judgment and decree does not contain any reason for passing the decree, we set aside the same.
12. M.S. No.05 of 2020 is remanded to the learned Trial Judge.
13. Learned Trial Judge is at liberty to proceed with M.S. No.05 of 2020 from the stage which the learned Trial Judge deems appropriate. He will ascribe reasons as to invocation of the stage which he deems appropriate.
14. Appellant deposited a sum of Rs.3,00,000/- with the Registrar General pursuant to the order passed by the Coordinate Bench in this appeal. Since, the impugned judgment and decree is set aside, the appellant is at liberty to obtain refund of the money deposited with the Registrar General along with accrued interest.
15. Registrar General will refund the amount deposited by the appellant to the credit of the appeal to the appellant forthwith on the request for the same.

If necessary, Registrar General is at liberty to encash the fixed deposit prematurely.

16. **FA 452 of 2025** is **allowed**.

17. Trial Court records be transmitted to the Trial Court forthwith.

(Debangsu Basak, J.)

18. I agree.

(AD)

(Md. Shabbar Rashidi, J.)