

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

ITANAGAR PERMANENT BENCH

CRP 35(AP)/2016

1. Sri Arup Megu,
S/o Late Ambir Megu,
R/o Upper Banskota Village,
P.O. & P.S.- Pasighat, East Siang District,
Arunachal Pradesh.

.....Petitioner

-Versus-

1. Mr. Arak Megu,
S/o Late Lombo Megu,
R/o Kelek Mirbak Village,
P.O. & P.S.- Pasighat, East Siang District,
Arunachal Pradesh.

2. The State of Arunachal Pradesh,
Being represented by the Secretary Department of Land Management.

3. The Director of Land Management,
Government of Arunachal Pradesh.

4. The Deputy Commissioner,
East Siang District, Pasighat,
Arunachal Pradesh.

5. The Land Revenue & Settlement Officer,
East Siang District, Pasighat,
Arunachal Pradesh.

.....Respondents

BEFORE
HON'BLE MR. JUSTICE KALYAN RAI SURANA

Advocates for the Petitioners	: Mr. S. Taye, Ms. B. Baruah.
Advocates for the Respondents	: Mr. K. Jini, Mr. T.T. Tara, Mr. T. Gadi, : Mr. D. Loyi, Mr. B. Picha, Mr. J. Jini, : Ms. S. Ketan, Ms. M. Rime, : Mr. G. Karto S. Mibang.
Date of hearing & judgment	: 18.05.2017.

JUDGMENT AND ORDER

Heard Mr. B. Baruah, learned counsel for the petitioner. Also heard Mr. B. Picha, learned counsel appearing for the respondent No. 1.

2) Owing to the nature of the challenge in the present application filed under Article 227 of the Constitution of India, this Court does not find it necessary to state the facts involved in PSG T.S. No. 1/2013, which is pending before the court of learned Additional District Judge, East Siang District, Pasighat (hereinafter referred to as the learned 'Trial Court'). The challenge in the present application are two orders dated 07.09.2016 passed by the said learned trial court in connection with I.A. No. 30/2016 and I.A. No. 31/2016.

3) In course of trial, the plaintiff witnesses were examined, cross-examined and discharged and one of the defendant's witness was also examined and discharged. At that stage, the respondent No. 1 herein who is the defendant in PSG T.S. No. 1/2013 filed two applications before the learned Trial Court, one being an application under

Order XIII Rule 1 Civil Procedure Code read with Order VIII Rule 14 of the said Code read with Section 5 of the Limitation Act with a prayer to admit the said petition, to condone the delay in filing of documents in original and to allow the respondent No.1/defendant to file the documents. The said application was registered as I.A. No. 30/2016. The second application was filed under Order VIII Rule 14 of the CPC with a prayer to admit the petitioner and to allow the respondent No. 1/defendant to file documents under Order VIII Rule 1 A for proper adjudication of the suit. The petitioner herein filed his written objection in both the applications. The learned trial court passed the following orders in I.A. No. 30/2016 and I.A. No. 31/2016 by allowing both the applications. The said orders are extracted below:

"I.A. 30/2016, L'd counsel for the applicant/defendant Mr. M. Riram and l'd counsel for the opposite party/plaintiff Mr. D. Sonuwal present.

The matter was partly heard on 29.07.2016 however due to paucity of time order could not pass on that day.

By this application, applicant sought for filing additional evidence.

Upon hearing the parties, this court allows this application as prayed by applicant.

With the above order and directions this application stands disposed of."

"I.A. 31/2016, L'd counsel for the applicant/defendant Mr. M. Riram and l'd counsel for the opposite party/plaintiff Mr. D. Sonuwal present.

By this application, applicant sought for allowing the I.A. No. 31/2016.

Upon hearing the parties, this court allows this application as prayed by applicant.

With the above order and directions this application stands disposed of."

4) The learned counsel for the petitioner submits that the orders, which are impugned herein, have been mechanically passed without giving any reasons and without recording the submissions of the parties or the reasons for allowing these two applications at the belated stage. It is further submitted that the said orders are not sustainable in the eye of law and the same be set aside and quashed.

5) Per-contra, the learned counsel for the respondent No. 1 submits that in the cause title of both the I.A. No. 30/2016 and I.A. No. 31/2016 there has been a typographical error by referring to provisions of Order VIII Rule 14, which was actually under the provisions of Order VIII Rule 1A, which is quoted in the prayer. It is further submitted that these two applications, being interlocutory in nature which are otherwise routine applications. Moreover, for ends of justice, it is open to a court to permit the parties to file documents at any stage of the proceedings. Hence, the absence of reasons in the impugned orders, does not vitiate the proceedings. Hence, the impugned order do not suffer from any jurisdictional error and the said orders be sustained. It is also submitted that when the additional evidence is acceptable even in the appellate stage, the orders of the court permitting documents to be brought on record is required to be allowed and, as such, the impugned orders ought not to be interfered with. In support of his argument, the learned counsel for the respondent No. 1 has relied on the case of *Billa Jagan Mohan Reddy & another vs. Billa Sanjeeva Reddy and ors.*, (2014) 4 SCC 659 and submits that it is a settled law that if the documents are found to be relevant to decide the real issue in the controversy, such documents can be received at any stage.

6) This Court having considered the rival arguments of the parties and carefully gone through the case of *Billa Jagan Mohan Reddy (supra)*. On perusal of the orders impugned herein, this Court finds that the learned trial court did not take the pain to record as to what were the documents filed or what documents were sought to be introduced by the respondent No.1/defendant. There is also no discussion as to how or why those documents were found to be relevant for a just and proper decision of the

real issues in controversy. The learned trial court did not address the objections raised by the petitioner herein.

7) This Court finds that the decision in the case of *Billa Jagan Mohan Reddy (supra)* does not come to any aid of the respondent No.1. In the said case it is stated that "*it is a settled law that, if the documents are found to be relevant to decide the real issues in the controversy, and when the court felt that interest of justice requires that the documents may be received, exercising the power under Order XLI Rule 27 CPC, the appellate court would receive the documents and consider their effect thereof*". The aforesaid case citation does not appear to help the respondent No. 1 because of three factors. Firstly, the provisions of Order XIII Rule 1 (1) has since been amended by Act 46 of 1999 w.e.f. 01.07.2002. Secondly, the issue before the Hon'ble Apex Court in the said case was the exercise of power by the appellate court under Rule 27 of Order XLI of the CPC. Thirdly, as per the ratio of the said case, it is incumbent on the court to record its finding as to whether those documents were relevant to decide the real issues in the controversy, and when the court feels that interest of justice requires that the documents may be received.

8) Both the orders which are impugned herein are quoted above. This Court finds that both the said impugned orders were mechanically passed without recording any reasons why in the opinion of the learned court, those documents may be necessary for deciding the lis between the parties. As the impugned orders are bereft of any reasoning, this Court is inclined to interfere with the orders impugned herein.

9) This Court in the case of *Monowar Hussain vs. Shri Manoranjan Das, (2016) 4 GLR* has made an elaborate discussion on the documents which are subsequently being sought to be brought on record and this Court had relied on the case of *Maria Margardia Sequeria Farnandes and Ors. Vs. Eresmo Jack de Sequeria (dead) through LRs, reported in (2012) 5 SCC 370*. Hence, this Court is of the view that ends of justice would be met if both the parties are relegated back before the learned trial court by setting aside the

orders impugned herein, by directing the learned trial court to hear the parties afresh and pass a speaking order on I.A. No. 30/2016 and I.A. No. 31/2016.

10) In view of above, the impugned orders dated 07.09.2016 passed by the learned Additional District Judge, East Siang District, Pasighat in I.A. No. 30/2016 and I.A. No. 31/2016 (arising out of T.S. No. 1/2013) is hereby set aside. The matter is remanded back to the said learned court to hear the parties afresh and pass a speaking order.

11) Accordingly, this application stands allowed. The interim order passed earlier shall stand vacated. The parties are left to bear their own cost.

12) The parties are directed to appear before the learned trial court on 05.06.2017 and to submit the certified copy of this order and seek further instruction from the said learned trial court without any further notice for appearance before the said learned trial court.

JUDGE

Mkumar