

IN THE GAUHATI HIGH COURT

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

ITANAGAR PERMANENT BENCH

MFA 02 (AP) 2016

*Shri Wangrang Wangjen,
S/o Late. Manpha Wangjen,
R/o Longding Bazar,
P.O.-Longding, Dist-Tirap,
Arunachal Pradesh.*

...Appellant/ Plaintiff

-Versus-

*Shri Longwang Wangham,
S/o Shri Phawang,
R/o Village Nginu,
P.O.-Wakka,
P.S. Longding,
Dist-Tirap,
Arunachal Pradesh*

...Respondent/Defendant

:::BEFORE::: HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

By Advocates:

For the Appellant/ Plaintiff: Mr. M. Batt.

For the respondent/ Defendant: Mr. D. K. Deori.

Date of hearing : **27.05.2019**

Date of Judgment & Order (Oral) : **27.05.2019**

JUDGMENT & ORDER (ORAL)

The instant appeal has been filed against the judgment and order dated 08.06.2016 passed by the learned District Judge, East Sessions Division, Tezu in Money Suit No.LDG (01)/2013. By the said impugned judgment and order, the said suit was dismissed. Accordingly, the plaintiff as appellant has approached this Court against the aforesaid judgment and order.

2. By the nature of the order proposed to be passed today disposing the appeal, a detail narration of the facts of the case may not be necessary. Accordingly, only the bare minimum of the facts are extracted in this order.
3. The Money Suit was filed seeking damages and compensation against the defendant for the loss caused to the plaintiff in executing a work of construction of 12.5 km of road from Kamhua Noknu Village of Pongchan Circle to Nginu Village BRTF road point of Wakka circle.
4. It is the allegation of the plaintiff that illegal obstructions were carried out by the defendant and his agents for which the work could not be fully completed. Allegations of illegal demands by the defendant by claiming to be the Raja of the village has also been made. Accordingly, an amount of Rs.46,82,000/- has been prayed for compensation for damage along with interest.
5. I have heard Shri M. Batt, the learned counsel for the appellant-plaintiff. I have also heard Shri D. K. Deori, the learned counsel for the respondent-defendant.
6. Shri Batt, the learned counsel by referring to the Letter of Acceptance dated 27.12.2010 submits that the work in question was duly allotted to the appellant-plaintiff at a contract price of Rs.9,83,44,612.84/-. The same was followed by the necessary agreement and notice to proceed and all the documents were duly exhibited before the learned Court below on the claim for compensation and 2 (two) crucial documents were exhibited, namely, a resolution dated 10.12.2011 of the Nginu Village including the defendant to strongly object the plaintiff in going ahead with the present construction work and the 2nd document is an application given by the villagers of Nginu village headed by the defendant to the Executive Engineer, PWD, forwarding the resolution and seeking necessary action. There is yet another document which is a so called "deed of agreement" regarding the work between the villagers led by the defendant and the plaintiff-appellant. However, though this document has been termed as a deed of agreement, the signature of

the plaintiff does not appear. All the aforesaid 3 (three) documents were exhibited as Exhibit Nos. 4, 5 & 6. The plaintiff had adduced evidence through 5 nos. of witnesses including himself as PW.1. The aforesaid 3 documents, namely, Exhibit 4, 5 & 6 were amongst the documents which were duly exhibited.

7. It is seen that though all the documents (20 in nos.) which were exhibited has a relevance of the adjudication of the dispute, the aforesaid 3 documents are of crucial significance as the entire claim would rest upon those.

8. The discussions on the above exhibits which appear in Paragraph-23 of the judgment does not seem to be adequate. Since the same documents, as indicated above, are of crucial importance for the parties, a more elaborate discussion was required to be done by the learned Court below.

9. Shri Deori, the learned counsel for the defendant submits that no glaring illegality or impropriety is apparent in the judgment and therefore, interference by the appellate Court will not be justified. According to the learned counsel for the respondent-defendant, the issues have been properly answered and in absence of concrete evidence coupled with the fact that the Department or the Government was not a party to the suit, no relief, whatsoever, could have been granted to the plaintiff-appellant. The learned counsel, however, fairly submits that the discussions on the documentary evidence, more specifically, Exhibits 4 & 5 could have been more elaborate.

10. The rival submission of the learned counsels for the respective parties have been duly considered.

11. It appears that amongst the documents proved as exhibits, the exhibits 4 & 5 form the basis of the claim and therefore, an elaborate discussions on the same was required from the learned Court below which is found to be lacking. Unless the evidentiary value of the said exhibits and the contents therein are discussed elaborately, a proper adjudication cannot be done.

12. In view of the aforesaid facts and circumstances and the discussions, the present appeal is partly allowed by remitting this matter to the learned Court below to decide the issues afresh by making an elaborate discussions on the aforesaid 2 exhibits. It is made clear that no observation on merits, evidentiary value or admissibility of the aforesaid documents is expressed in this judgment and it is left to the learned Court below to apply his independent mind and pass a judgment.

Registry is directed to transmit the records of this case to the learned Court below and the parties have agreed to appear before the learned Court below on 25.06.2019.

It is also made clear that the decisions would be rendered on the existing set of material before the learned Court below and no new material can be introduced, at this stage by any of the parties.

In view of the above, this appeal stands disposed of.

JUDGE

Talem