

GAHC010029312026



2026:GAU-AS:2202

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

Case No. : CRP(IO)/42/2026

DINESH KOTHYARI JAIN AND ANR
S/O LATE AMOLAK CHAND KOTHYARI, PROPRIETOR OF ASSAM
HARDWARE STORES, A.O.C. ROAD, P.O. - BONGAIGAON, PIN- 783380,
ASSAM

2: ASSAM HARDWARE STORES
A PROPRIETORSHIP FIRM REPRESENTED BY SRI DINESH KOTHYARI JAIN
S/O LATE AMOLAK CHAND KOTHIYARI
A.O.C. ROAD
P.O.- BONGAIGAON
PIN- 783380
ASSA

VERSUS

MOLAY GHOSH
S/O LATE MUKUNDA CHANDRA GHOSH, PROPRIETOR OF M/S KMB
ENTERPRISE, TRIBENI COMMERCIAL COMPLEX, 3RD FLOOR, BLOCK-B,
ROOM NO. 13, G.S. ROAD, BHANGAGARH, GUWAHATI, PIN - 781007,
ASSAM

Advocate for the Petitioner : MR. M U MAHMUD, MS. N BHARADWAJ, C YANTHAN, V
KHAKHALARY, MR S H MAHMUD

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 16.02.2026

Heard Mr. M.U. Mahmud, learned counsel for the petitioners.

2. This petition, under Section 115(b)(c) of the CPC, read with Article 227 of the Constitution of India, is preferred by the petitioners for granting them 30 days time to file review petition against the ex-parte judgment and decree dated 17.09.2024, passed by the learned Civil Judge (Senior Division), Bongaigaon, in Money Suit No. 286/2020, and also to set aside the order dated 17.01.2026, passed by the learned Civil Judge (Senior Division), Bongaigaon, in M.Ex. No. 3/2025 and/or to allow the petitioners to deposit the decretal amount in ten monthly equal instalments.

3. Mr. Mahmud, learned counsel for the petitioners submits that the petitioners are judgment debtors in Money Suit No. 286/2020 and respondents in M.Ex. No. 3/2025, pending before the learned Civil Judge (Senior Division), Bongaigaon. By referring to the order dated 17.01.2026, Mr. Mahmud submits that vide said order, the learned executing Court in M.Ex. No. 3/2025, has not passed any order upon the petition No. 178/2026, filed by the petitioners herein, whereby they prayed for time for filing a review petition under Section 47 of the CPC, and that the next date had been fixed on 17.02.2026, for execution of the warrant with police help. Mr. Mahmud further submits that the petitioners are ready to make payment of the decretal amount, but they are not in a position to make payment in one go and as such, they may be allowed to make payment of the same in ten equal instalments.

4. To a pointed query of this Court, as to whether any review petition has been preferred before the learned trial Court, Mr. Mahmud submits that till date, the same has not been preferred. To another query of this Court, as to whether the he is aware of the decision of Hon'ble Supreme Court in the case of **Periyamal (Dead) Through LRs and Ors. Vs. V. Rajamani and Anr., in Civil Appeal Nos. 3640-3642 of 2020**, wherein a direction was issued by Hon'ble Supreme Court to dispose of execution case within a period of six months, Mr. Mahmud submits that he is aware of the same.

5. At this stage, Mr. Mahmud submits that he may be allowed to withdraw this petition with liberty to approach the learned executing Court to accord him permission to make payment of the decretal amount in instalments.

6. Accordingly, the petitioners are allowed to withdraw this petition. However, liberty is granted to the petitioners to approach the learned executing Court and file appropriate petition, and in the event of filing of such a petition, the learned executing Court shall consider the same in accordance with law.

7. In terms of above, this writ petition stands disposed of on withdrawal.

JUDGE

Comparing Assistant