

GAHC010026572023



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

Case No. : I.A.(Civil)/339/2023

M/S SRI RANI SATI AUTO STORES
CHAND MARKET, A.T. ROAD, GUWAHATI-1, DIST. KAMRUP, ASSAM A
PROPRIETORSHIP FIRM REPRESENTED BY ITS PROPRIETOR, MRS. SUNITA
DEVI AGARWAL.

VERSUS

ASSAM STATE TRANSPORT CORPORATION AND ANR
A BODY CORPORATE ESTABLISHED UNDER THE PROVISIONS OF THE
ROAD, TRANSPORT CORPORATION ACT, 1950 PALTAN BAZAR,
GUWAHATI-8, DIST. KAMRUP, ASSAM, REPRESENTED BY ITS MANAGING
DIRECTOR

2:THE MANAGING DIRECTOR
ASSAM STATE TRANSPORT CORPORATION
PALTAN BAZAR
GUWAHATI-8
DIST. KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR S S SHARMA

Advocate for the Respondent : MR. JYOTIRMOY ROY

Linked Case : MACApp./384/2019

SRI PARTHA PRATIM HAZARIKA
S/O- LATE GOLAP HAZARIKA

R/O- HATICHUNG
P.S. ROHA
DIST.- NAGAON
ASSAM.

VERSUS

MR. BIJAY BHARGAVA AND 4 ORS.
S/O- LATE NABIN CH. BHARGAVA
R/O- BIMLA NAGAR
KALAPAHAR
P.S. FATASIL AMBARI
DIST.- KAMRUP
PIN- 781016
ASSAM. (OWNER OF THE SCOOTER BEARING REGISTRATION NO. AS-01-J-3669).

2:MR. DINESH KR. BHARGAVA

S/O- LATE NABIN CH. BHARGAVA
R/O- BIMLA NAGAR
KALAPAHAR
P.S. FATASIL AMBARI
DIST.- KAMRUP
PIN- 781016
ASSAM. (DRIVER OF THE SCOOTER BEARING REGISTRATION NO. AS-01-J-3669).

3:THE ORIENTAL INSURANCE COMPANY LIMITED
PANBAZAR BRANCH GUWAHATI- 781001 (INSURER OF THE SCOOTER
BEARING REGISTRATION NO. AS-01-J-3669 VIDE POLICY NO.
321100/31/2009/675).

4:MR. PADMESWAR HAZARIKA
S/O- LATE GOLAP HAZARIKA
R/O- HATICHUNG
P.S. ROHA
DIST.- NAGAON
ASSAM. (OWNER OF THE MOTOR CYCLE BEARING REGISTRATION NO. AS-02-D-2627).

5:UNITED INDIA INSURANCE COMPANY LTD.
NAGAON BRANCH OFFICE
PADMALAYA
NATIONAL HIGHWAY-37
HAIBARGAON
PIN- 782002
NAGAON
ASSAM. (INSURER OF THE MOTOR CYCLE BEARING REGISTRATION NO.
AS-02-D-2627 VIDE POLICY NO. 130101/31/08/01/000003353).

Advocate for : MR. R D LAL
Advocate for : MR. M DUTTA appearing for MR. BIJAY BHARGAVA AND 4 ORS.

Linked Case : MACApp./585/2019

ORIENTAL INSURANCE COMPANY LTD
(A CENTRAL GOVT. UNDERTAKING) HAVING ITS REGIONAL OFFICE AT
GUWAHATI
ULUBARI
GUWAHATI-781007 REP. BY THE REGIONAL MANAGER
GAUHATI REGIONAL OFFICE
ULUBARI
GUWAHATI-781007.

VERSUS

SRI PARTHA PRATIM HAZARIKA AND 4 ORS
S/O. LT. GOLAP HAZARIKA
R/O. HATICHUNG
KUJDAH
P.O. HATICHUNG
P.S. ZAZARI
DIST. NAGAON
ASSAM
PIN-782142.

2:BIJAY BHARGAVA

S/O. LT. NABIN CH. BARGAVA
R/O. BIMALA NAGAR
KALAPAHAR
P.O. BINOVANAGAR
P.S. FATASIL AMBARI
DIST. KAMRUP
ASSAM
PIN-781016. (OWNER)
3:DINESH KR. BHARGAVA

S/O. LT. NABIN CH. BARGAVA
R/O. BIMALA NAGAR
KALAPAHAR
P.O. BINOVANAGAR
P.S. FATASIL AMBARI
DIST. KAMRUP

ASSAM
PIN-781016. (DRIVER)
4:PADMESWAR HAZARIKA

S/O. LT. N. HAZARIKA
R/O. HATICHUNG
P.O. HATICHUNG
P.S. ROHA
DIST. NAGAON
ASSAM
PIN-782142 (OWNER)
5:UNITED INDIA INS. CO. LTD.
NAGAON BRANCH OFFICE
PADMALAYA
P.O. HAIBARGAON
NATIONAL HIGHWAY-37
HAIBARGAON
DIST. NAGAON
ASSAM
PIN-782002.

Advocate for : MS. R D MOZUMDAR
Advocate for : MR M BEZBARUAH appearing for SRI PARTHA PRATIM
HAZARIKA AND 4 ORS

Linked Case : RFA/56/2015

ASSAM STATE TRANSPORT CORPORATION and ANR
A BODY CORPORATE ESTABLISHED UNDER THE PROVISIONS OF THE
ROAD
TRANSPORT CORPORATION ACT
1950 PALTAN BAZAR
GUWAHATI-8
DIST. KAMRUP
ASSAM
REPRESENTED BY ITS MANAGING DIRECTOR

2: THE MANAGING DIRECTOR

ASSAM STATE TRANSPORT CORPORATION PALTAN BAZAR
GUWAHATI-8
DIST. KAMRUP
ASSAM.
VERSUS

M/S SRI RANI SATI AUTO STORES

CHAND MARKET
A.T. ROAD
GUWAHATI-1
DIST. KAMRUP
ASSAM A PROPRIETORSHIP FIRM REPRESENTED BY ITS PROPRIETOR
MRS. SUNITA DEVI AGARWAL.

Advocate for : MS.M DUTTA
Advocate for : MRA SHARMA appearing for M/S SRI RANI SATI AUTO STORES

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 21.2.2023

Heard Mr. S. S. Sarma, learned counsel for the applicant. Also heard Mr. J. Roy, learned Senior Counsel assisted by Mr.A.K Sahewalla, learned counsel for respondent ASTC.

The respondent ASTC has preferred Regular First Appeal assailing the judgment and decree dated 24.2.2015 passed in Money Suit No. 183/2001, whereby the learned Civil Judge, Sr. Division, No.3, Kamrup, Guwahati has decreed payment of Rs.21,74,990/- in favour of the plaintiff/applicant. Being aggrieved by the aforesaid judgment and decree, the connected First Appeal has been preferred by Assam State Transport Corporation and accordingly the appeal was admitted on 14.10.2015 subject to deposit of 50% of decretal amount.

Accordingly the appellant had deposited 50% of decretal amount before the Registry of this Court and in view of such deposit, the present application has been filed with a prayer to allow the respondent/ decree holder to withdraw

the 50% of the decretal amount as deposited by the appellant.

Heard the learned counsel for the parties.

Considered the submissions made and this court is of the view that, if the aforesaid amount is allowed to be withdrawn with a condition of furnishing a bond for the equal amount by the applicant herein, the appellant shall not be prejudiced.

Accordingly, it is provided that the Registry may allow the present applicant /sole respondent in RFA 56/2015 to withdraw the deposited amount by the appellant i.e *Assam State Transport Corporation* subject to however, furnishing of a bond for equal amount by the applicant/respondent in RFA No. 56/2015.

IA stands disposed of.

JUDGE

Comparing Assistant