



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

Case No. : FA 4/2014

1:TOSHIPOKBA LONGKUMER
S/O LT. MERENNUNGSANG LONGKUMER,R/O HALF NAGARJAN,DIMAPUR

2: C.AMONG JAMIR
S/O S.C JAMIR
R/O HALF NAGARJAN
DIMAPUR

VERSUS

1:HUKAVI MURU
R/O 21/2 MILE,DIMAPUR

Advocate for the Petitioner : R. IRALU, SR. ADV

Advocate for the Respondent : N K LUIKHAM

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 28-02-2022

. Heard Mr. R. Iralu, learned Senior Advocate assisted by Ms. Abeni for the appellant and Mr. N. K. Luikham, learned counsel appearing on behalf of the respondents.

A perusal of the impugned judgement and decree dated 31.03.2014 shows that the learned Trial Court has

partially decreed the suit in favour of the plaintiff and also decreed the counter claim filed by the defendant. However, the appellant on a misconception that filing only one appeal against the two decrees being passed would be sufficient, had filed only one appeal. The learned Senior counsel submits that the grounds of objection so taken in the said Memo Appeal challenges both the decrees whereby the suit of the plaintiff was partially decreed and counter claim of the defendant was decreed.

However, taking into consideration the provisions of Section 96 and the provisions of the order VIII rule 6 A and the order XLI Rule 1, the learned counsel submits that it would be better that the technicality in the maintainability of the appeal be taken care of, by taking an appeal. Accordingly, taking into consideration that it was due to misconception that one appeal would suffice, the mistake was committed at the advise of the lawyer, this Court deems it proper to grant the liberty to the appellant, if he so desires can file the appeal challenging the decree of the counter claim passed, within a period of 15 days from today, and if such appeal is filed within the said period, the delay shall be condoned.

Sd/-
JUDGE