

GAHC040002022022



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

Case No. : CRP 6/2022

1:Pakter Koyu Marde
Wife of Shri Takar Marde,
Resident of H Sector, Near Arunadaya School, Itanagar, P.O. and P.S Itanagar, District
Papum Pare, Arunachal Pradesh

VERSUS

1:Toko Yaram
Wife of Shri Toko Talo,
Resident of Papu Hill, Opposite side of O/o Superintendent Engineer (PWD) Central
Zone, P.O and P.S Naharlagun, District Papum Pare, Arunachal Pradesh

Advocate for the Petitioner : M. Biswas

Advocate for the Respondent :

BEFORE
HONBLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 02-05-2022

Heard Mr. M. Biswas, learned counsel for the petitioner.

Office Note, dated 30.04.2022, indicates that service report upon sole

respondent is still awaited.

Mr. Biswas, learned counsel for the petitioner, praying for considering the interim prayer for staying the further proceeding of Title Suit No. 03/2015, pending before the Court of learned Civil Judge (Senior Division), Capital Complex, Yupia, submits that the petitioner, as plaintiff, instituted a Suit for allowing him to pay the debt in the current rate of interest as fixed by the Reserve Bank of India under the Banking Regulation Act, 1949. But, the learned Court below, vide impugned judgment and order dated 18.05.2017, has dismissed the Suit and against the said judgment and order of the learned Civil Judge (Senior Division), Capital Complex, Yupia, the petitioner preferred one regular first appeal, being RFA No. 04/2017, before this Court. This Court, while disposing of the aforesaid RFA No. 04/2017, vide judgment and order, dated 12.12.2017, was pleased to set aside the impugned judgment and decree, dated 18.05.2017, and remanded back the matter to the learned Court below with direction to determine whether the rate of interest in question is reasonable or not taking into considering of the attending circumstances, giving opportunity of adducing additional evidence to both the sides, if so advised and then to dispose of the matter afresh in accordance with law. Mr. Biswas, learned counsel for the petitioner, further submits that thereafter the learned Court below has framed as many as 5 (five) issues, vide order dated 20.03.2022, and issue Nos. 1 & 2 have already been decided by the learned Court below in the judgment and order dated 18.05.2017. Mr. Biswas submits that framing of these 2 (two) issues, i.e. issue Nos. 1 & 2, which have already been decided by the learned Court below, is in contravention of the direction of this Court in RFA No. 04/2017, dated 12.12.2017, and that the case is pending before the learned

Court below for cross-examination of the plaintiff witnesses and once witnesses are cross-examined, the matter would become infructuous and, therefore, Mr. Biswas, learned counsel for the petitioner, contended to stay the proceeding pending before the learned Court below.

Having heard the submission of learned counsel for the petitioner, I have carefully gone through the petition and the documents placed on record.

Taking note of all the facts and circumstances, further proceeding of Title Suit No. 03/2015, pending before the Court of learned Civil Judge (Senior Division), Capital Complex, Yupia, stands stayed until further order.

Since this order has been passed *ex parte*, the respondent will be at liberty to approach this Court on any point of time for modification/alteration of the order, if so advised.

The petitioner shall take fresh steps for causing service of notice upon respondent.

List the matter after 3 (three) weeks.

JUDGE

Comparing Assistant