

GAHC040003562025

2026:GAU-AP:20



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

Case No. : CRP/16/2025

Absolute Built Concept Private Limited
represented by its Managing Director, Shri Manikonda Srinivasa Kumar, Son of Late
M V Krishna Rao, resident of No. 1417, 3 3rd Block East, Jayanagar, Bangalore,
District Bangalore, Karnataka 530068

VERSUS

Mibom Pertin
Son of Late Gora Pertin, Sole proprietor of M/s Shantipur Filling Station, PO Roing,
PS Shantipur, Lower Dibang Valley District, Arunachal Pradesh 792110

Advocate for the Petitioner : Deepak Kumar Gupta, Hage Tai, Himanku Baruah

Advocate for the Respondent : Tony Pertin, Eddie Payeng, H K Jamoh

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

19/01/2026

The present review petition has been filed under Article 227 of the Constitution of India assailing the order dated 15.01.2025 passed by the learned Civil Judge, Senior Division at Roing, Lower Dibang Valley, Arunachal Pradesh rejecting the application No. 115/2023 filed under order 7 rule 11 of the Code of

Civil Procedure, 1908.

2. Heard learned counsel for the petitioner, Mr. Deepak Kumar Gupta as well as learned counsel, Mr. Tony Pertin for the respondent.

3. The case of the petitioner herein is that the respondent as plaintiff had filed a summary suit on 01.07.2023 under order XXXVII of the Code of Civil Procedure, 1908 against the present petitioner in the court of Civil Judge, Senior Division at Roing, Lower Dibang Valley, which was registered as Money Suit No. 2/2023 praying for a decree of payment of Rs. 12,13,37,070.00 (Rupees Twelve Crore, Thirteen Lakhs, Thirty Seven Thousand and Seventy) as principal amount and Rs. 1,35,89,748.00 (Rupees One Crore Thirty Five Lakhs Eighty Nine Thousand Seven Hundred and Forty Eight) only as interest at 24% p.a. for 4 (four) years and 8 (eight) months calculated from the first day of cause of action and to pass a decree for payment of Rs. 2,57,23,455.00 (Rupees Two Crore Fifty Seven Lakhs Twenty Three Thousand Four Hundred and Fifty Five) only on the whole inclusive of interest along with pendent lite and future interest @ 24% p.a. from the date of the filing of the petition.

4. It is stated that the petitioner upon receiving notice filed an application under order 7 rule 11 of the CPC praying for rejection of the plaint vide petition No. 115/2023 dated 06.11.2023 raising ground of limitation and contended that the suit was barred by limitation.

5. It is further stated by the petitioner that his application under order 7 rule 11 of the CPC was not considered by the learned Trial Court and being aggrieved, a Civil Revision Petition being CPC No. 15/2024 was filed before this Court. This

Court by order dated 10.09.2024, directed the Trial Court to dispose of the application filed by the petitioner under order 7 rule 11 CPC and all the parties were directed to appear before the trial court. In pursuance of the said direction of this Court to hear the parties, the trial court heard the parties and rejected the application of the petitioner No. 115/2023 by the impugned order dated 15.01.2025. Being aggrieved, the petitioner has come before this Court assailing the impugned order dated 15.01.2025 on the ground that the petitioner had raised the issue on limitation and had argued that the suit was barred by Section 18 of the Limitation Act but, the trial court has not discussed the same and has not given any finding on the issue of limitation.

6. The learned counsel for the petitioner, argues that even if the MOU dated 29.09.2018 was executed between the parties voluntarily, in that event also, the suit ought to have been filed within 3 (three) years i.e. on or within 29.09.2021 but, the suit was filed only on 30.06.2023. it is further contented that in terms of paragraph No. 5 of the order dated 10.01.2022 passed by the Hon'ble Supreme Court in Miscellaneous Application No. 21/2022 in MA 665/2021 in SMW(C) No. 3/2020 the period of limitation as on 03.10.2021 is 5 (five) days. As per this order dated 10.01.2022 the suit ought to have been filed within 90 (ninety) days to be counted from 01.03.2022 and 90 (ninety) days expired on 01.06.2022 whereas the suit was filed only on 30.06.2023 and therefore, the same has barred by limitation.

7. In spite of the suit being clearly barred by limitation, the learned Trial Court did not consider the contentions of the petitioner and instead his application No. 115/2023 was rejected on the ground that the issue of limitation cannot be determined solely based on the MOU and post dated cheques issued and the

entire facts and circumstances surrounding the case had to be thoroughly examined.

8. Learned counsel for the petitioner therefore prays that the impugned order dated 15.01.2025 passed by the learned Civil Judge, Senior Division, Roing, Lower Dibang Valley rejecting the application of the petitioner filed under order 7 rule 11 CPC may be quashed and set aside.

9. Per contra, the learned counsel, Mr. Tony Pertin appearing for the respondent submits that the petitioner had executed a MOU with the respondent on 29.09.2018 acknowledging the outstanding amount payable to the respondent/ plaintiff. Post dated cheques were also issued by the petitioner in further acknowledgment of his subsisting liability towards the respondent/ plaintiff. It is submitted that section 18 of the Limitation Act requires acknowledgment before expiry of limitation in writing and signed or attributable to debtor. After execution of the MOU, the petitioner had repeatedly acknowledged the outstanding dues vide multiple Whatsapp communication dated 13.11.2018, 14.11.2018, 15.11.2018, 05.12.2018, 11.12.2018, 13.12.2018, 24.12.2018, 25.12.2018, 17.01.2019, 27.01.2019, 02.02.2019 and 03.04.2019.

10. It is the contention of the learned counsel for the respondent that the petitioner had admitted his outstanding dues and sought time for payment on the ground that they had not received their full payments. This electronic communication constitutes valid acknowledgements under section 18 of the Limitation Act.

11. Learned counsel for the respondent further submits that last

acknowledgement by the petitioner was on 03.04.2019 and therefore the cause of action arose from 03.04.2019 and the Limitation of 3 (three) years commenced from 03.04.2019. Therefore the initial period of Limitation would have expired on 02.04.2022. However, by the order dated 10.01.2022, the Hon'ble Supreme Court in In Re: Cognizance for Extension of Limitation, the period from 15.03.2020 to 28.02.2022 stood executed for all judicial and quasi-judicial proceedings. Therefore the new limitation started running from 01.03.2022. Therefore upon exclusion of the said period from 15.03.2020 to 28.02.2022, the limitation for filing the suit stood extended up to March, 2024.

12. Learned counsel submits that the suit was filed on 30.06.2023 and was therefore well within the extended period of limitation.

13. Learned counsel further submits that it is well settled that when the plaint discloses acknowledgment of liability, issuances of cheques and continuous electronic communications, the question of limitation cannot be decided without a full trial.

14. Another contention made by the learned counsel for the respondent is that the petitioner is seeking to convert the revisional jurisdiction of this Court into an appellate jurisdiction which is not permissible in law. He submits that Article 227 of the Constitution cannot be used to re-appreciate facts or to interfere with a reasoned order of the trial court. Learned counsel therefore submits that the ground order dated 15.01.2025 does not suffer from any perversity and does not warrant the interference of this Court.

15. This Court has considered the submission of the opposing counsels and has

also perused the trial court records.

16. The revisional power of this Court is limited to rectify errors of jurisdiction or significant procedural legalities. Revision does not involve re-evaluation of facts unless a finding is perverse. Upon going through the impugned order dated 15.01.2025, this Court finds that there is no patent illegality, error of jurisdiction or procedural illegality. Be that as it may, the petitioner/ defendant had filed a petition No. 115/2023 under order 7 rule 11 of CPC frame for rejection of the plaint on the ground of limitation. In the opinion of this Court, the learned court below did not arrive at any finding with regard to the issue of maintainability and the issue of limitation has also not been discussed or reflected in the order dated 15.01.2025. The plaintiff was also not been allowed to file a response to the application under order 7 rule 11 CPC.

17. This Court is therefore of the view that the present review petition can be disposed of at this stage by remanding back the matter to the learned Civil Judge Senior Division, Roing, Lower Dibang Valley for fresh consideration of the petition No. 115/2023 filed under order 7 rule 11 CPC.

18. Learned Trial Court shall also allow the plaintiff/respondent to file a response to the application under order 7 rule 11 refuting the ground raised by the defendant/ petitioner if so advised and thereafter, the learned Trial Court shall pass a speaking order either rejecting or allowing the application under order 7 rule 11 CPC by arriving at a reasoned finding with regard to the limitation.

19. The Registry is directed to send back the Trial Court Records expeditiously.

The learned Civil Judge, Senior Division, Roing, Lower Dibang Valley, is also directed to dispose of the said petition No. 115/2023 after hearing both the parties at an early date.

Petition stands disposed of.

JUDGE

Comparing Assistant