

HIGH COURT FORM NO.(J) 2.

HEADING OF JUDGMENT IN ORIGINAL SUIT / CASE

DISTRICT: SONITPUR

**IN THE COURT THE OF MUNSIFF NO.2, SONITPUR,
TEZPUR**

Present: **Smti Priyanka Saikia, AJS,
Munsiff No.2**

This the 19th day of September, 2022

Title Suit No. 116/2022

Saidul Islam

S/o- Late Tahir Ali @ Tahiruddin

Village- AlisingaUriamguri

Mouza- Mahabhairab

P.O.- Panchmile

P.S.- Tezpur

District- Sonitpur, Assam

-----Plaintiff

-vs-

Sri Akhil Chandra Ghosh

S/o- Late Nagendra Chandra Ghosh

Village- AlisingaUriamguri

Mouza- Mahabhairab

P.O.- Panchmile

P.S.- Tezpur

District- Sonitpur, Assam

-----Defendant

CASE NO: T.S. 116/2022

This is a suit came up for final hearing on 19-09-2022 in presence of following Advocates:

Counsel for Plaintiff :Sri J.P. Mishra

Counsel for Defendant :Sofikul Rahman

And having stood for consideration to this day, the Court delivered the following Judgment:-

J U D G M E N T

Plaintiff's case in brief:

- 1.** This is a suit for specific performance.

- 2.** That in the month of March, 2012 the plaintiff requested the defendant to sell a piece of land to the plaintiff for construction of house, the defendant agreed to sell the schedule land to the plaintiff on sale consideration of Rs. 45,500/- (Rupees Forty Five Thousand Five Hundred) only.

- 3.** That plaintiff on 20-03-2012 paid an advance of Rs. 10,000/- (Rupees Ten Thousand) only to the defendant and on receipt of the advance amount the defendant delivered possession of the schedule land to the plaintiff and also allowed to construct houses/structures over the schedule land, the deal with the defendant was verbal. The plaintiff as per verbal permission of the defendant constructed katcha houses/structures over the schedule land in month of April, 2012 and thereafter in the year 2017 constructed pucca house over the schedule land.

4. That plaintiff paid advance amount to the defendant from time to time as demanded by the defendant and upto 04-09-2021 the plaintiff paid total advance amount Rs. 43,600/- (Rupees Forty Three Thousand Six Hundred) only to the defendant out of total sale consideration amount Rs. 45,500/- (Rupees Forty Five Thousand Five Hundred) only.

5. That the defendant on 04-09-2021 executed a Registered Deed of Advance for Sale of schedule land being no. 1483 for the year 2021 of Tezpur Sr. Sub-Registry Office, Tezpur Registered on 04-09-2021 in favour of the plaintiff in presence of witnesses. The defendant promised to obtain requisite permission for sale of the schedule land from the competent authorities and to accept the balance sale consideration amount from the plaintiff on the day of execution of Registered Sale Deed in favour of the plaintiff for the schedule land.

6. The defendant has assured and promised the plaintiff that he would obtain requisite permission for sale of the schedule land within the month of November, 2021 and at any cost shall execute registered sale deed within 31-12-2021.

7. That the plaintiff on 20-11-2021, 15-12-2021, 31-12-2021 tendered the balance sale consideration amount of Rs. 1,900/- (Rupees One Thousand Nine Hundred) only and requested the defendant to execute Registered Sale

Deed in favour of the plaintiff, but the defendant on all occasions assured the plaintiff that very soon he would obtain requisite permission for sale and execute registered sale deed in favour of the plaintiff.

8. That the plaintiff again on 10-02-2022, 15-04-2022 tendered the balance sale consideration amount to the defendant and requested to accept the same and to execute Registered Sale Deed in favour of the plaintiff, but the defendant did not accepted the same and requested to allow some time and promised to obtain requisite permission for sale and to execute Registered Sale Deed in favour of the plaintiff within 31-05-2022 positively.

9. That the plaintiff on 31-05-2022 met with the defendant and tendered him the balance sale consideration amount and requested to execute Registered Sale Deed by accepting the balance sale consideration amount, but surprisingly the defendant has refused to sale the schedule land to the plaintiff and also refused to accept the balance sale consideration amount.

10. That the plaintiff on 04-06-2022 has come to know that the defendant has been bargaining with some persons for sale of the schedule land at a higher sale consideration amount.

11. That the defendant has failed to perform his part of contract which was entered by him on 04-09-2021. On the

other hand the plaintiff has performed his part of contract and ever ready to pay the balance sale consideration amount to the defendant at the time of execution of Registered Sale Deed by the defendant in favour of the plaintiff.

12. That if the defendant does not execute Registered Sale Deed in favour of the plaintiff and if he execute Registered Sale Deed in favour of any other person at higher sale consideration amount, then the plaintiff shall suffer irreparable loss and injuries both in law and equity, as the plaintiff has invested about Rs. 2,00,000/- (Rupees Two Lakhs) only in construction of his houses/structures over the schedule land and the plaintiff has no any other land. Hence, the instant suit.

13. On plaint being admitted summon was issued upon the defendant and he has appeared personally today and seen a petition vide petition no. 1977/2022 on 03.09.2022 under Order XII Rule 6 r/w Section 151 of CPC and admit the pleadings made by the plaintiff and pray to pass judgment and decree on admission under Order XII Rule 6 of the CPC.

14. Heard the defendant personally.

15. Heard the learned counsel for both sides and perused the case record.

16. It is seen from the petition that defendant has admitted the whole contentions of the plaintiff and since there is an admission on the part of the defendant, therefore admission decree is passed in favour of the plaintiff.

17. During the course of trial, i.e. at the stage of appearance of the defendant, the plaintiff has filed a petition bearing no.1977/2022 under Order XII Rule 6 CPC praying for pronouncement of judgment on admission and passing of decree accordingly on the ground that due to COVID 19 pandemic situation, moreover the health condition of the defendant was also not well and could not obtain necessary permission from the concerned authority and since the defendant have admitted the case of the plaintiff, so, nothing is left for this court to be decided.

18. I have perused the aforesaid petition and heard the submission of Ld. Counsels. Considering the averment made in petition, wherein the defendant has admitted that he entered into an agreement for sale of land with plaintiff on 04.09.2021 and the same was duly registered in the office of the Sr. Sub-Registrar, Sonitpur, at Tezpur vide Registered Deed No.1483/2021, therefore, I am of the considered opinion that the ends of justice would be meet, if the prayer of the plaintiff is allowed considering the object of Order XII Rule 6 of CPC.

19. As aforesaid provision of law states that –

CASE NO: T.S. 116/2022

1) "Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

2) Whenever a judgment is pronounced under sub-rule (1), a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the said judgment was pronounced."

20. Further, the Hon'ble Supreme Court in the case of **Charanjit Lal Mehra -Vs- Kamal Saroj Mahajan** reported in **AIR 2005 SC 2765** also held that, "Order XII Rule 6 CPC is enacted for the purpose of and in order to expedite the trials; if there is any admission on behalf of the defendants or an admission can be inferred from the facts and circumstances of the case without any dispute; then, in such a case in order to expedite and to disposed of the matter such admission can be acted upon.

21. So, keeping in view the aforesaid object of Order XII Rule 6 CPC, I deem it fit to exercise my discretion and pronounce judgment on admission accordingly.

22. Moreso, where it is a settled proposition of law that admitted fact need not be proved. Hence, the suit is decreed on admission.

23. Prepare the admission decree in accordance.

24. Accordingly the suit is disposed of.

Given under my hand and seal of this court on this 19th day of September, 2022.

(Priyanka Saikia, AJS)
Munsiff No.2
Sonitpur, Tezpur