

Assam Schedule VII. Form No.143

HIGH COURT FORM NO. (J) 13.

Form of Order Sheet

DISTRICT : **TINSUKIA**

IN THE COURT OF THE CIVIL JUDGE, TINSUKIA

Present:- Ms. Leena Doley, AJS, Civil Judge, Tinsukia

Misc.(J) Case No.11 of 2022
(Arising out of Title Suit No.60/2017)

Sri Pranjan Baruah.....Petitioner/Defendant

----VS----

Smt. Nirupama Bhuyan.....O.P/Plaintiff

23.05.2022

The parties are duly represented.

This Order is passed in disposing a Petition vide No.580/2022 filed U/s.151 of C.P.C. by the petitioner/defendant stating that P.W.1 Smti Nirupama Bhuyan during her cross-examination on 20.12.2021 admitted that she maintains another account in United Bank of India, Simulguri Branch vide Account No.0306010218898 and the petitioner specifically pleaded in his written statement that he has deposited a sum of Rs. 2,48,500/- from 06.07.2016 to 17.05.2017 in 15 installments in the above mentioned account of the O.P./plaintiff.

The petitioner states that for proper adjudication of the matter, the O.P./plaintiff may be

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directed to produce the statement of the aforementioned account for period from 07.07.2016 to 17.05.2017 or to call for the statements from the U.B.I., Simulguri Branch and therefore, prays for passing necessary order in this regard.

On the other hand, the O.P./plaintiff has objected the instant petition stating that the petitioner has failed to quote specific provision of law under which the instant petition has been filed. The O.P. states that the petitioner/defendant failed to mention about the said account number of the petitioner in their pleadings and has filed the instant petition at belated stage to fill up the lacunae of the defendant's case.

The O.P. also stated that the petitioner not only failed to mention about the aforesaid account number of the O.P. in his pleadings but also failed to call for any account as prayed for in this petition and therefore, the instant petition is not tenable under law and as such is liable to be dismissed outright.

Seen the petition. Heard the learned counsel of both the sides and perused the case record of Money Suit No.60/2017 and found that the defendant did not mention about this account number of the

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plaintiff/O.P. in their pleadings though they have mentioned that the amounts were repaid through cash deposit and transfer in the account of the plaintiff/O.P. maintained in U.B.I., Simulguri Branch.

It is also seen that no prayer for calling any account details or statement of the said account of the plaintiff/O.P. was filed by the petitioner/defendant at the stage of documents and only at the stage of cross-examination of P.W.1, the petitioner/defendant has filed this instant petition praying for directing the O.P./plaintiff to produce the statement of his account maintained in U.B.I. Simulguri Branch from the period 06.07.2016 to 17.05.2017 or to call for the statement of the said account and period from the U.B.I., Simulguri Branch.

Though the petitioner/defendant did not mention the account number of the O.P./plaintiff in their W.S., they have taken specific plea that an amount of Rs.2,48,500/- in 15 installments have been repaid to the O.P./plaintiff. Therefore, for proper adjudication of this suit and for the ends of justice though the instant petition has been filed at a belated stage, the petition is allowed.

The petitioner/defendant is allowed to take steps for

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calling the statement of the O.P./plaintiff maintained in U.B.I., Simulguri Branch from the concerned Branch Manager bearing Account No.0306010218898.

The instant Misc.(J) case is disposed of.

(Dictated)


CIVIL JUDGE
TINSUKIA ASSAM