

**HIGH COURT OF TRIPURA
AGARTALA
CRP No.18/2024**

Smt. Anamika Deb (Dey)

..... Petitioner(s).

V E R S U S

Sri Ashim Dey

.....Respondent(s).

For Petitioner(s) : Mr. Sankar Lodh, Advocate,
Mr. Kishalay Roy, Advocate.

For Respondent(s) : Mr. S.S. Debnath, Advocate,
Mr. Manoj Debnath, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

27/06/2024

Heard Mr. Sankar Lodh, learned counsel for the petitioner, and
Mr. S.S. Debnath, learned counsel for the respondent.

By the impugned order dated 19.12.2023 the learned Judge,
Family Court, Ambassa, Dhalai Tripura has refused to accept the written
statement filed by the defendant-wife/petitioner herein as it was beyond 90
days, i.e. filed on 121st day after receipt of summons. The learned trial Court
has also referred to the decision of the Apex Court in the case of *Salem
Advocate Bar Association, T.N. vrs. Union of India* reported in (2005) 6 SCC
344 where it has been held that the provision under Order VIII Rule 1 is
directory in nature. Petitioner-wife being aggrieved has approached this Court.

It is submitted that in a matrimonial suit if the written statement of
the defendant-wife is not taken into account, there would be no complete
adjudication and as such, it may lead to miscarriage of justice. Petitioner is the
wife and there are no deliberate reasons for minor delay of 31 days in filing the
written statement beyond the statutory limit of 90 days. Therefore, the

impugned order may be interfered and the Court may be directed to take the written statement on record.

Learned counsel for the respondent-husband has opposed the prayer. He submits that there is no explanation in the application preferred under Order VIII Rule 1 for acceptance of the written statement beyond the statutory period of 90 days. The learned trial Court was, therefore, right in refusing to accept it. He submits that the petitioner has also not invoked the right provisions for extension of time for acceptance of the written statement.

I have considered the submission of learned counsel for the parties and taken note of the materials placed on record.

The present matter arises out of a matrimonial suit. Petitioner is the wife. The delay in filing the written statement is 31 days beyond the statutory period of 90 days counted from the date of service of summons. In the case of *Salem Advocate Bar Association* (supra), the Apex Court has held that the period of 90 days so prescribed is directory in nature. This Court is, therefore, of the considered opinion that neither the delay is inordinate nor is it proper to refuse acceptance of written statement in a matrimonial suit being contested by the wife as it may preclude the Court from a proper adjudication of the main issue in controversy.

Therefore, the impugned order dated 19.12.2023 is set aside. Let the written statement be taken on record by the learned trial Court.

The instant revision petition is allowed and disposed of. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

Pulak