

GAHC010005962023



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

Case No. : CRP(IO)/33/2023

ABUL KALAM HUSSAIN
S/O- ALHAZ AMIRUDDIN SHEIKH,
R/O- NEW MARKET, AGIA ROAD,
WARD NO- 14, GOALPARA, TOWN,
P.O- GOALPARA,
DIST- GOALPARA, ASSAM

VERSUS

FORJILA BIBI AND 7 ORS
W/O- LATE NUR ISLAM

2:NASRIN SULTANA
D/O- LATE NUR ISLAM

3:FARDIN ISLAM
S/O- LATE NUR ISLAM
REP. BY MOTHER FORJILA BIBI

4:SAMNUR ISLAM
S/O- LATE SAKOWAT ALI

5:SOHIBUL ISLAM
S/O- LATE AFAZ ALI
@SAMBARU SK

6:SOHIBUL ISLAM
S/O-SOHIBUL ISLAM

7:FULBOR HUSSAIN
S/O- LATE MOHAMMAD ALI

8:ROFIJUL ISLAM
S/O- LATE MOHAMMAD ALI.

ALL ARE RESIDENT OF VILAGE POCHAPARA (BURJUK MANIKPUR)

P.O AND P.S- KRISHNAI

DIST- GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 20.05.2024

Heard Mr.R. Ali, learned counsel appearing for the petitioner.

- 2.** As per the office note dated 17.05.2024, service of notice upon the respondents 1, 2, 3, 4, 5 and 8 is already complete. None appears for them.
- 3.** The present petitioner is the defendant in Title Suit No. 72/2022. On 11.11.2022, he prayed for some time to file the written statement. The Court held that the statutory period of 90 days had already elapsed. Therefore, the petitioner was not given the liberty to file the written statement.
- 4.** I am of the considered opinion that for disposal of this revision petition, the presence of all the respondents is not required.
- 5.** It is a settled law that the statutory period of 90 days mentioned by Order VIII of the Code of Civil Procedure is not mandatory, rather it is directory. When such petitions come before the trial Court, the Court has to exercise judicial

mind. Here, in this case, it appears that the trial Court did not exercise judicial mind. Therefore, the impugned order dated 11.11.2022 passed by the Munsiff No. 2, Goalpara in Title Suit No. 72/2022 is set side.

6. The trial Court shall provide one opportunity to the present petitioner to file the written statement and thereafter, the Court shall proceed to dispose of the case in accordance with the procedures laid down by law.

The revision petition is disposed of accordingly.

The interim order passed earlier stands vacated.

JUDGE

Comparing Assistant