

GAHC010008572024



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

Case No. : CRP(IO)/31/2024

MS. BANANI PAUL
W/O SRI SHYAMAL CHANDRA PAUL, R/O HOUSE NO. 16, PULIN NIWAS,
MILANPUR, REHABARI, GUWAHATI-781009, DIST-KAMRUP (M), ASSAM

VERSUS

GAUTAM SUTRADHAR
S/O LATE TARAKNATH SUTRADHAR, R/O HARIJON BUNIADI VIDYALAYA,
BYE-LANE, MARASHALI, ULUBARI, GUWAHATI-7, DIST-KAMRUP, ASSAM

For the petitioner (s) : Mr. M. Sarma, Advocate

For the respondent (s) : Mr. R. K. Bhuyan, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

03.05.2024

This is an application under Article 227 of the Constitution challenging the order dated 11.12.2023 passed in Title Suit No.370/2023 by the learned Court of the Civil Judge (Junior Division) No.3, Kamrup (M) at Guwahati whereby the written statement so submitted by the defendant was rejected on the ground that statutory period of 90 days had elapsed.

2. This Court has duly taken note of the order dated 06.11.2023 whereby the defendant was permitted to file the written statement on 11.12.2023. Accordingly on 11.12.2023, the defendant filed the written statement. However, the learned Trial Court rejected the said written statement on the ground that the summons were delivered to the defendant on 09.08.2013.

3. Taking into account that the defendant was duly permitted to file the written statement on 11.12.2023 which is a part of the record of Title Suit No.370/2023, in the opinion of this Court, the order dated 11.12.2023 thereby rejecting the written statement was not called for.

4. Accordingly, the impugned order dated 11.12.2023 is interfered with and thereby directing the learned Trial Court, i.e. the Court of the Civil Judge (Junior Division) No.3, Kamrup (M) at Guwahati to accept the written statement filed by the defendant and then to proceed with the suit in accordance with law.

5. The order dated 29.02.2024 passed by this Court stands vacated and as the parties are duly represented, they are directed to appear before the learned Trial Court on 01.06.2024.

6. In view of the above, the instant petition stands disposed of.

JUDGE

Comparing Assistant