

GAHC010020432016



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

Case No. : CRP/234/2016

GOJENDRA NATH RAJKHOWA and ANR
S/O LT. DEEBIA RAJKHOWA, R/O DERGAON TOWN, W/NO.4, P.O., P .S. and
MOUZA- DERGAON, DIST- GOLAGHAT, ASSAM

2: KHOGEN DRA NATH BORUAH
S/O LT. GOLAK CHANDRA BORUAH
R/O RUP NAGAR
DEKA GIRI PATH
GUWAHATI
P.O. INDRAPUR
P.S. PALTANBAZAR
DIST- KAMRUP METRO
ASSA

VERSUS

SMTI. SURA PROVA BORUAH and ANR.
D/O LT. GOLAK CHANDRA BORUAH, R/O CHOKIAL GAON, W/NO.3, P.O.,
P .S. and MOUZA- DERGAON, DIST- GOLAGHAT, ASSAM, PIN-785614

2:RAJENDRA NATH BORUAH
S/O LT. GOLOK CHANDRA BORUAH
R/O NO.2 BAKULANI CHARIALI
P.O. BAKULANI CHARIALI
MOUZA- TENGA KHAT
P.S. BHADOIPANCHALI
DIST- DIBRUGARH
ASSAM
PIN-78600

For the Petitioner(s) : None appears.

For the Respondent(s) : None appears.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 04.03.2024

1. The instant application under Article 227 of the Constitution has been filed challenging the order dated 03.06.2016 in Title Suit No.14/2015 passed by the learned Civil Judge, Golaghat whereby vide the impugned order, the learned Trial Court rejected the application of the Petitioners who were the Defendant Nos. 1 and 2 for accepting the written statement which was filed 13 days beyond the permissible limit of 90 days.
2. This Court has duly perused the said order dated 03.06.2016 and from a perusal of the same, it reveals that it was on account of the mistake committed by the counsel for which the written statement was not filed within the due date. Considering the judgment of the Supreme Court in the case of ***Kailash Vs. Nanhku*** reported in ***MANU/SC/0264/2005*** which had held that the filing of the written statement to be directory, however subject to the requirement of showing good reasons for not doing so, this Court is of the opinion that in the facts of the instant case, the learned Court ought to have accepted the written statement more so when the written statement was already filed along with the said application.
3. Taking into account the above, this Court interferes with the order dated 03.06.2016 and thereby directing the learned Court of the Civil Judge, Golaghat to accept the written statement of the Defendant Nos. 1 and 2 in Title Suit No.14/2015.
4. With above observations and directions, the instant proceedings stands

disposed of.

5. The parties herein are directed to appear before the learned Court below on 02.04.2024 so that the learned Court below shall proceed with the further disposal of the suit in accordance with law.

6. The interim order passed by this Court on 22.07.2016 stands vacated.

JUDGE

Comparing Assistant