

GAHC010031082024



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

Case No. : CRP(IO)/108/2024

BADARUDDIN
S/O- LATE JAMIRUDDIN,
R/O- VILLAGE- KHOPNIKUCHI,
P.S- HAJO,
P.O- KHOPNIKUCHI, DIST- KAMRUP, ASSAM, PIN-781339

VERSUS

SAGARIKA BAISHYA AND 2 ORS
D/O- LATE PRAFULLA BAISHYA

2:PRABIN BAISHYA
S/O- LATE PRAFULLA BAISHYA

3:JATIN BAISHYA
S/O- LATE PRAFULLA BAISHYA

R/O- VILLAGE RAMDIA

P.S- HAJO
P.O- KARIA
DIST- KAMRUP
ASSAM
PIN-78133

Advocate for the Petitioner : MD. B HUSSAIN, MR A H TOUFIQ

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

31.07.2024

Heard Md. B Hussain, learned counsel for the petitioner.

This is an application filed under Article 227 of the Constitution of India challenging the order dated 30.10.2023 passed by the learned Civil Judge (Junior Division), Kamrup, Amingaon in Title Suit No. 66/2018.

The present petitioner is the defendant no. 2 in the suit pending before the trial court. On one occasion, a direction was passed for proceeding the case against the present petitioner exparte. Thereafter, the petitioner filed an application to vacate the said order and also filed the written statement. The trial court refused to accept the written statement on certain grounds.

I have considered the submission made by the learned counsel for the petitioner. This court is of the opinion that the petitioner should be given an opportunity to file the written statement. Therefore, the impugned order dated 30.10.2023 passed by the learned Civil Judge (Junior Division), Kamrup, Amingaon in Title Suit No. 66/2018 is set aside.

The written statement filed by the defendant no. 2 Badaruddin shall be accepted by the trial court and, thereafter, the trial court shall proceed to dispose of the matter in accordance with law.

With the above, the present civil revision petition is disposed of.

JUDGE

Comparing Assistant