

GAHC010033852024



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

Case No. : CRP(IO)/80/2024

JYOTSNA DEVI @ DEVEE
W/O- SRI PRASANNA NATH, C/O- BHAVANA BEAUTY PARLOUR BORAH
COMMERCIAL COMPLEX, DR. BHABENDRA NATH SAIKIA ROAD, NEAR
HOUSING BUS STOP, P.O. BELTOLA SURVEY, GUWAHATI, DIST.
KAMRUP(M), ASSAM, PIN- 781028.

VERSUS

ARUN KUMAR BORAH
S/O- LATE PRAFULLA CHANDRA BORAH, R/O- HOUSE NO. 21, KUSHAL
KONWAR ROAD, CHENIKUTHI HILL SIDE, P.O. CHENIKUTHI, GUWAHATI,
DIST. KAMRUP(M), ASSAM, PIN- 781003.

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : MR G RAHUL

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

26.02.2024

Heard Mr. R Sarma, learned counsel for the petitioner and Mr. G Rahul, learned counsel for the respondent.

This is an application filed under Article 227 of the Constitution of India challenging the order dated 09.01.2024 passed in Title Suit No. 418/2013 by the learned Civil Judge (Junior Division) No. 1, Kamrup (Metro), Guwahati.

The petitioner is the defendant before the court below. The plaintiff examined his witnesses and the defendant also examined one witness i.e. DW-1. The defendant wanted to examine more witnesses and therefore trial court allowed her time to examine more witnesses. But in this way, 6 (six) years had gone by and the defendant could not produce witnesses. The trial court was very generous in giving time but ultimately the trial court also gave warning to the defendant to produce witnesses and finally, the trial court dismissed their application seeking more time.

I have considered the submission made by the learned counsel. I have found that this case shows the affairs going on in the trial court. Even then, this court is of the opinion that the petitioner should be given one last opportunity to produce her witnesses. Accordingly, the civil revision petition is allowed subject to the condition that the petitioner/defendant shall pay an amount of Rs.25,000/- as cost, which shall be deposited before the trial court on the next date fixed.

The petitioner/defendant shall deposit the cost on 11.03.2024 and the cost shall be given to the plaintiff. On 11.03.2024, the defendant shall produce DW-2 for recording his evidence. But in order to have the DW-2 examined and cross-examined, first the cost shall be paid. If cost is not paid, the trial court shall be at liberty to close the hearing of evidence of defendant's side.

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

JUDGE

Comparing Assistant