

GAHC010034032024



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

Case No. : CRP(IO)/72/2024

PRAHLAD NATH
S/O- LATE KANU RAM NATH, R/O- CHANGSARI, MALAYPUR, P.O. AND P.S.
CHANGSARI, DIST. KAMRUP, ASSAM, PIN- 781101.

VERSUS

UTTAM NATH AND 7 ORS
S/O- LATE MANIRAM NATH, R/O- CHANGSARI, P.O. AND P.S. CHANGSARI,
DIST. KAMRUP, ASSAM, PIN- 781101.

2:PUTULI DEVI
W/O- LATE LUHIT NATH
R/O- CHANGSARI
THENGATOL
P.O. AND P.S. CHANGSARI
DIST. KAMRUP
ASSAM
PIN- 781101.

3:BIREN CHANDRA NATH
S/O- LATE MONMIL NATH
R/O- CHANGSARI
P.O. AND P.S. CHANGSARI
DIST. KAMRUP
ASSAM
PIN- 781101.

4:AMULYA NATH
S/O- LATE KALPA RAM NATH
R/O- VILL.- KENKONIKUCHI
P.O. MARAMJAN
P.S. RANGIA

DIST. KAMRUP
ASSAM
PIN- 781354.

5:DURGA RAM NATH
S/O- LATE KALPA RAM NATH
R/O- VILL.- KENKONIKUCHI
P.O. MARAMJAN
P.S. RANGIA
DIST. KAMRUP
ASSAM
PIN- 781354.

6:JITEN NATH
S/O- LATE KALPA RAM NATH
R/O- VILL.- KENKONIKUCHI
P.O. MARAMJAN
P.S. RANGIA
DIST. KAMRUP
ASSAM
PIN- 781354.

7:CHANDRADHAR NATH
S/O- LATE GOLOK NATH
R/O- VILL.- BORPOLAH
P.O. BORPOLAH
P.S. BAIHATA CHARIALI
DIST. KAMRUP
ASSAM
PIN- 781121.

8:KUSHAL NATH
S/O- LATE GOLOK NATH
R/O- VILL.- BORPOLAH
P.O. BORPOLAH
P.S. BAIHATA CHARIALI
DIST. KAMRUP
ASSAM
PIN- 781121

Advocate for the Petitioner : MR. A R SHOME

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

21.02.2024

Heard Mr. A R Shome, learned counsel for the petitioner.

This is an application under Article 227 of the Constitution of India challenging the order dated 19.01.2024 passed by the learned Civil Judge (Junior Division), Kamrup at Amingaon in T.S. No. 136/2023.

On 19.01.2024 the petitioner being the defendant appeared before the trial court and filed written statement. The said written statement was rejected by the court below on the ground that it was filed after the expiry of 90 (ninety) days, as mandated by Order 8 of the Code of Civil Procedure.

This court is of the opinion that since the provision of law as laid down in Order 8 of the CPC is directory one, the court below should have exercised judicial mind while refusing to accept the written statement, which was not done. Without exercising judicial mind, the trial court refused to accept the written statement. Therefore, the order dated 19.01.2024 passed by the learned Civil Judge (Junior Division), Kamrup at Amingaon in T.S. No. 136/2023 is bad in law and set aside.

The trial court is directed to accept the written statement as well as counter claim filed by the petitioner being the defendant and thereafter, court shall proceed to dispose of the case in accordance with law.

With the above direction, the present civil revision stands disposed of.

JUDGE

Comparing Assistant