

GAHC010048722024



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

**Case No. : CRP(IO)/98/2024**

JIAD ALI @ JIYAD ALI RAHMAN  
S/O- ABUL SK @ ABUL KALAM, R/O- VILLAGE SILKATARI PART-I, P.O.  
BILASHPUR, P.S. KOKRAJHAR, DISTRICT- KOKRAJHAR, ASSAM, PIN CODE  
783372

VERSUS

ABDUL HAMID SK  
S/O- LATE CHANDULLAH SK, R/O- VILLAGE SILKATARI PART-II, P.O.  
BILASHPUR, P.S. KOKRAJHAR, DISTRICT- KOKRAJHAR, ASSAM, PIN CODE  
783372

For the Appellant(s) : Md. I. Hussain, Advocate

For the Respondent(s) : Mr. P. K. Das, Advocate

**BEFORE**  
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 27.06.2024**

This is an application filed under Article 227 of the Constitution challenging order dated 19.12.2023 passed in Title Suit No.26/2023 by the Court of the learned Civil Judge (Junior Division), Kokrajhar whereby

the learned Trial Court had debarred the Petitioner who is the defendant in the suit for filing the written statement on the ground that even on the 90<sup>th</sup> day, the written statement was not filed from the date of receipt of the summons.

2. It is seen from the records that on 05.02.2024, an application was filed by Petitioner under Section 151 of the Code of Civil Procedure, 1908 (for short "the Code") before the learned Trial Court for acceptance of the written statement and leave was sought to file the written statement. However, the learned Trial Court vide an order of the same date i.e. 05.02.2024 had rejected the said application and did not accept the written statement.

3. The learned counsel appearing on behalf of the Petitioner submitted that on account of difficulties beyond the control of the Petitioner, the said written statement could not be filed on 19.12.2023.

4. I have heard the learned counsels for the parties and taking into account the fact that the written statement is ready and was also placed before the learned Trial Court on 05.02.2024, this Court for the ends of justice is of the opinion that the petitioner herein who is the defendant should be permitted to file the written statement. Accordingly, this Court therefore interferes with the orders dated 19.12.2023 and 05.02.2024 thereby directs the learned Trial Court i.e. the Court of the learned Civil Judge (Junior Division), Kokrajhar to accept the written statement.

5. Be that as it may, this Court cannot also be unmindful of the fact that there is a period stipulated under Order VIII Rule 1 of the Code wherein it stipulates that the written statement has to be filed within 30

days and the Court cannot enlarge the period beyond 90 days. Under such circumstances, if some cost is not being imposed, it would show a wrong signal and accordingly, this Court imposes a cost of Rs.10,000/- upon the Petitioner to be deposited on the next date as fixed by this Court.

6. It is seen that this Court vide an order dated 11.03.2024 had stayed the further proceedings of Title Suit No.26/2023. The said stay order stands vacated and the parties herein who are duly represented are directed to appear before the learned Trial Court on 12.07.2024 on which date, the said amount of Rs.10,000/- shall be deposited before the Court. It is made clear that the deposit of an amount of Rs.10,000/- shall be a condition precedent for acceptance of the written statement.

7. The plaintiff would be at liberty to file appropriate application before the learned Trial Court for the purpose release of the said amount and upon such application being filed, the learned Trial Court shall pass appropriate orders.

8. With above observations and directions, the instant petition stands disposed of.

**JUDGE**

**Comparing Assistant**