

GAHC010069872024



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

Case No. : CRP(IO)/223/2024

MD SURHAB ALI
S/O AJGAR ALI, VILL- SIBAPUR, P.O. AND P.S.-UDALGURI, DIST-
UDALGURI, BTR, ASSAM, PIN-784509

VERSUS

MD MAGAR ALI AND ANR
S/O LATE DILU MANDAL, VILL- SIBAPUR, P.O. AND P.S.-UDALGURI, DIST-
UDALGURI, BTR, ASSAM, PIN-784509

2:MD. MAHIBUL ISLAM
S/O INSAN ALI
VILL- SIBAPUR
P.O. AND P.S.-UDALGURI
DIST- UDALGURI
BTR
ASSAM
PIN-78450

Advocate for the Petitioner : MR. S CHAUHAN

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

Date : 15.07.2024

Heard Mr. S Chauhan, learned counsel for the petitioner.

This is an application filed under Article 227 of the Constitution of India challenging the order dated 24.08.2023 passed by the learned Civil Judge (Junior Division), Udalguri in T S No. 27/2022.

The petitioner is the defendant before the trial court. After 17 (seventeen) days of delay after expiry of 90 (ninety) days, he wanted to file written statement but the same was not accepted by the trial court only on the ground that after getting sufficient opportunity, the petitioner failed to file written statement within the period of 90 (ninety) days as mandated by Order 8 of the CPC.

I have considered the submission made by the learned counsel for the petitioner.

It is a settled position of law that period of 90 (ninety) days as mandated by order 8 of the CPC is not a mandatory, rather it is a directory one. Therefore, I find that the reasons shown by the learned trial court for not accepting the written statement is not satisfactory. Therefore, the impugned order dated 24.08.2023 passed by the learned Civil Judge (Junior Division), Udalguri in T S No. 27/2022 is set aside.

The trial court is directed to accept the written statement filed by the petitioner/defendant and thereafter, the court shall proceed to dispose of the matter in accordance with law.

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

JUDGE

Comparing Assistant