

GAHC010100722024



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

Case No. : CRP(IO)/220/2024

JYOTI PRASAD KALITA
S/O- LATE CHANDRA KANTA KALITA, R/O- HOUSE NO. 80, DR. N.P.
BORDOLOI ROAD, DISPUR, GHY-781005, DIST. KAMRUP(M), ASSAM

VERSUS

HEALTH CITY HOSPITAL
A UNIT OF NORTH EAST HEALTH CITY PVT. LIMITED, A COMPANY
REGISTERED UNDER COMPANIES ACT, 1956 AND HAVING ITS
REGISTERED OFFICE AT HEALTH CITY COMPLEX, KOINADHARA, N/H-37,
KHANAPARA, GHY-781022, DIST. KAMRUP(M), ASSAM, REP. BY ITS
MEDICAL DIRECTOR DR. BHABANI CHAKRABORTY.

Advocate for the Petitioner : MR S BHARALI, MR. M DAS,N K NEOG

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 01-08-2024

1. Heard Mr. S. Bharali, learned counsel for the petitioner. None has appeared for the respondent side.

2. It appears that the notices issued to the sole respondent was duly served through Dasti mode by the petitioner in pursuant to the directions of this Court and in support of the said fact an affidavit of compliance has also been filed, annexed with a copy of notice, wherein the seal of the respondent hospital along with signature of the receiving officer has been appended. As no one has appeared for respondent, this Court deems it proper to hear this revision petition ex-parte against the respondent.

3. This application under Article 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure has been filed by the applicant impugning the order dated 20.02.2024 passed by learned Civil Judge, (Senior Division No. 3), Kamrup (Metro) in Money Suit No. 87/2023 whereby the prayer of the petitioner for further time for filing written statement was rejected by the Trial Court on the ground that the statutory period for filing of the written statement has had already expired on 31.01.2024.

4. Learned counsel for the petitioner has submitted that the petitioner is a cardio vascular surgeon and he was engaged in some emergency operations for a period of above one week as well as he was out of station due to his professional engagement and therefore he could not instruct his counsel for filing of the written statement.

5. Learned counsel for the petitioner has also submitted that the earlier engaged counsel of the petitioner, due to his personal difficulty has withdrawn his vakalatnama and thereafter the petitioner engaged the present set of counsel and very less time was available (2 weeks) for instructing the newly engaged counsel. Therefore, there was a delay in filing of the written statement.

6. Learned counsel for the applicant has also submitted that the Money Suit

No. 87/2023 was fixed yesterday, i.e. on 31.07.2024, before the Trial Court for filing of evidence of the plaintiff side. However, the plaintiff sought time for filing evidence which was allowed. It is also submitted by learned counsel for the petitioner that counsel for the petitioner has already informed the Trial Court regarding pendency of this civil revision petition before this Court and as the trial has not progressed much, no prejudice would be caused to the respondent/plaintiff, if the petitioner is allowed to file his written statement before the Trial Court.

7. Considering the reasons shown for the inability on the part of the petitioner to file the written statement within the time granted by the Trial Court and considering the stage at which the trial is presently pending, this Court is of considered opinion that for the ends of justice, the prayer of the petitioner may be allowed and he may be allowed to submit his written statement before the Trial Court on the next date fixed, i.e. on 25.10.2024 without fail subject to payment of cost of Rs. 2,000/- to the respondent/plaintiff.

8. With above observations, this revision petition is hereby allowed and disposed of.

JUDGE

Comparing Assistant