

GAHC010127852023



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

Case No. : CRP(IO)/173/2023

GOVINDRA CHANDRA PAUL
S/O- LATE BRINDABAN CH. PAUL, R/O- VILL. AND P.O. PAIKAN, DIST.
HAILAKANDI, ASSAM, PIN- 788155.

VERSUS

CANARA BANK
HAILAKANDI BRANCH, DIST. HAILAKANDI, ASSAM, REPRESENTED BY
THE MANAGER, CANARA BANK, HAILAKANDI BRANCH-222311.

For the appellant (s) : Ms. B. Devi, Advocate

For the respondent (s) : Mr. D. Gogoi, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

22.03.2024

This is an application challenging the order dated 24.04.2023 passed in Misc. (J) Case No. 67/202/ arising out of Money Suit No.03/2022 whereby the application filed by the petitioner who was the defendant in the suit for accepting the written statement was rejected on the ground

that the defendant did not file the written statement within the stipulated period of time in terms with Order VIII Rule 1 of the CPC.

2. This Court has duly taken note of that it was on account of the difficulties beyond the control of the defendant/petitioner which has resulted in not filing the written statement within the stipulated period of time. Further to that, it has also been submitted by Ms. B. Devi, the learned counsel for the petitioner that the written statement is ready and would be filed on such date as this Court may fix.

3. This Court has also heard Mr. D. Gogoi, the learned counsel appearing on behalf of the respondent/plaintiff who submits that he has no objection if the written statement is accepted. However, a date may be fixed so that the written statement can be filed in as much as the suit otherwise is being delayed.

4. Taking into account the above, this Court is of the opinion that the orders dated 23.11.2022 and 24.04.2023 passed by the learned Trial Court is required to be interfered with. Accordingly, the said orders stand set aside and quashed to the extent of not permitting the defendant/petitioner herein to file the written statement.

5. Both the parties being duly represented before this Court are directed to appear before the learned Trial Court on 18.04.2024. On the said date, the petitioner who is the defendant in the suit shall file the written statement without fail. It is observed that in case of the failure to file the written statement on or before the date fixed by this Court would revive the orders set aside by this Court herein.

6. This Court has also taken due note of that certain reasonable costs

have to be imposed. Accordingly, this Court imposes the cost of Rs.5,000/- to be deposited by the defendant in the said suit which shall be a condition precedent for acceptance of the written statement. The plaintiff would be at liberty to file an application for release of the said amount of costs so directed herein to be deposited. The learned Trial Court shall proceed with the suit in accordance with law.

7. In view of the above, the instant petition stands disposed of.
8. Interim order, if any, stands vacated.

JUDGE

Comparing Assistant