

GAHC010138462024



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

**Case No. : CRP(IO)/245/2024**

AMAR ALI AND 4 ORS.

S/O- EUSOB ALI SHEIKH, R/O- VILL.- KHANABARI ARAIANI PT-II, P.O. AND  
P.S. BOGRIBARI, DIST. KOKRAJHAR, BTR, ASSAM, PIN- 783349.

2: SOMER ALI

S/O- EUSOB ALI SHEIKH  
R/O- VILL.- KHANABARI ARAIANI PT-II  
P.O. AND P.S. BOGRIBARI  
DIST. KOKRAJHAR  
BTR  
ASSAM  
PIN- 783349.

3: JHOMER ALI

S/O- EUSOB ALI SHEIKH  
R/O- VILL.- KHANABARI ARAIANI PT-II  
P.O. AND P.S. BOGRIBARI  
DIST. KOKRAJHAR  
BTR  
ASSAM  
PIN- 783349.

4: MONJUR ALI

S/O- EUSOB ALI SHEIKH  
R/O- VILL.- KHANABARI ARAIANI PT-II  
P.O. AND P.S. BOGRIBARI  
DIST. KOKRAJHAR  
BTR  
ASSAM  
PIN- 783349.

5: MOSSTT. PIYARJAN BEWA

W/O- EUSOB ALI SHEIKH  
R/O- VILL.- KHANABARI ARAIANI PT-II

P.O. AND P.S. BOGRIBARI  
DIST. KOKRAJHAR  
BTR  
ASSAM  
PIN- 783349

VERSUS

LEGAL HEIRS OF ROKEYA KHATUN AND 4 ORS

2:ROKIBUL ISLAM TALUKDAR  
S/O- NUROL ISLAM TALUKDAR  
R/O- VILL.- KHANABARI ARAIANI PT-II  
P.O. AND P.S. BAGRIBARI  
DIST. KOKRAJHAR  
BTR  
ASSAM  
PIN- 783349.

3:ROUSHONARA KHATUN  
D/O- NUROL ISLAM TALUKDAR  
R/O- VILL.- KHANABARI ARAIANI PT-II  
P.O. AND P.S. BAGRIBARI  
DIST. KOKRAJHAR  
BTR  
ASSAM  
PIN- 783349.

4:JULFA ISLAM  
D/O- NUROL ISLAM TALUKDAR  
R/O- VILL.- KHANABARI ARAIANI PT-II  
P.O. AND P.S. BAGRIBARI  
DIST. KOKRAJHAR  
BTR  
ASSAM  
PIN- 783349.

5:NURJAHAN BIBI  
W/O- NUROL ISLAM TALUKDAR  
R/O- VILL.- KHANABARI ARAIANI PT-II  
P.O. AND P.S. BAGRIBARI  
DIST. KOKRAJHAR  
BTR  
ASSAM  
PIN- 783349

**Advocate for the Petitioner : MR. A IKBAL**

**Advocate for the Respondent :**

**BEFORE  
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

22.07.2024

- 1.** Heard Mr. A. Ikbal, the learned counsel for the petitioners.
- 2.** This application under Article 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure, 1908 has been filed by the petitioners, namely, 1. Amar Ali, 2. Somer Ali, 3. Jhomer Ali, 4. Monjur Ali, and 5. Mosstt. Piyarjan Bewa, impugning the order dated 04.06.2024 passed by the learned Civil Judge (Jr. Div), Kokrajhar in Title Suit No. 41/2023, whereby the next date of the said case was fixed on 16.07.2024 for issues.
- 3.** The learned counsel for the petitioners has submitted that the respondents herein, have filed a Title Suit before the Court of learned Civil Judge (Jr. Div), Kokrajhar for declaration of Right, Title and Interest over suit property and the said Title Suit was registered as Title Suit No. 41/2023.
- 4.** The learned counsel for the petitioners has submitted that after receiving the summons from the Court, the petitioners appeared in the said suit before the Court on 30.08.2023.
- 5.** It is submitted by the learned counsel for the petitioners that the respondents, who were the plaintiffs of the said suit prayed for amendment of the plaint which was allowed and ultimately, on 04.10.2023, the amended plaint was filed by the respondents.
- 6.** It is also submitted by the learned counsel for the petitioners that the

respondents though the amended plaint was filed by the respondents, however, the copy of plaint annexed with documents were not furnished to the petitioners and therefore, on 21.12.2023, the petitioners had prayed for furnishing the copy of the full plaint along with the annexed documents, and prayed for further time for filing written statement, which was allowed by the Trial Court.

**7.** It is further submitted by the learned counsel for the petitioners that on 06.02.2024, the petitioners filed a petition bearing No. 170/2024, before the Trial Court seeking some more time for filing written statement on the ground that the copy of the amended plaint, along with the annexed documents were not furnished to them. However, the Trial Court rejected the said prayer on the ground that on perusal of the record, it appears that the counsel for the present petitioners had received the copy of the amended plaint by putting his signatures.

**8.** The learned counsel for the petitioners submits that the earlier counsel which was engaged by the petitioners was a junior counsel and he failed to file written statement within the period of 90 days, which was not known to the present petitioners, and therefore, the petitioners engaged a new set of counsels and on 29.04.2024, filed an application under Order VIII Rule 1 read with Section of the Code of Civil Procedure, 1908, along with the copy of written statement for accepting the written statement on the grounds stated in the said petition.

**9.** The learned counsel for the petitioners has submitted that very strangely the said petition was not even registered and was not taken on record and no reflection about filing of the said petition is there in the order dated 29.04.2024, as well as 04.06.2024.

**10.** The learned counsel for the petitioners has submitted that the suit land,

i.e. schedule-'C' is presently in possession of the present petitioners and they would be highly prejudiced if they are not allowed to file written statement and contest the case and the learned counsel submits that any condition may be imposed and the petitioners may be allowed to file written statement.

**11.** He also submits that the next date of the Title Suit is fixed on 31.08.2024 for pending of issues.

**12.** I have considered the submissions made by the learned counsel for the petitioners, as well as gone through the documents annexed, along with the revision petition by the petitioners.

**13.** This Court finds no error or irregularity in the order dated 06.02.2024, whereby the Trial Court had rejected the prayer for further time for filing written statement on the ground that the ground taken by the present petitioners that they have not received the copy of the amended plaint was found to be wrong as the Trial Court found that the counsel for the petitioners had received the copy of the plaint by putting his signatures on the amended plaint on the last date.

**14.** The submissions made by the counsel for the petitioners that the petition filed by the above-named petitioners on 29.04.2024 was not even taken on record and no order was passed on the said petition is a matter of concern.

**15.** Be that as it may, considering the fact that the issues in the Title Suit No. 41/2023 are yet to be framed, this Court is of the considered opinion that the ends of justice would be served if the petitioners are allowed to file written statement on the next date before framing of the issues with some cost imposed on the petitioners so as to compensate the loss of time consumed due to their negligence in not filling the written statement within the stipulated period of 90 days.

**16.** considering the facts and circumstances of this case, this Court also does not wish to issue notice to the respondents.

**17.** In view of what has been stated above, this revision petition is disposed of with a direction to the petitioners to file written statement in Title Suit No. 41/2023 without fail on the next date fixed, i.e. on 31.08.2024, subject to payment of cost of Rs. 5,000/-. The Trial Court shall receive the written statement on payment of cost of Rs. 5,000/- by the petitioners. The cost deposited shall be paid to the respondents/plaintiff by the Trial Court.

**18.** With the above observations, this civil revision petition is hereby disposed of.

**JUDGE**

**Comparing Assistant**