

GAHC010138482024



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

Case No. : CRP(IO)/231/2024

BISWANTH SHAH AND 2 ORS
SON OF LATE GOKUL SHAH BANIYA @ GOKUL CHARNIYA,
RESIDENT OF PACHAGARH,
FAKIRAGRAM, WARD NO. -6,
P.O. AND P.S.- FAKIRAGRAM,
DISTRICT- KOKRAJHAR, PIN- 783345,
ASSAM.

2: RAMNATH SHAH
SON OF LATE GOKUL SHAH BANIYA @ GOKUL CHARNIYA
RESIDENT OF PACHAGARH

FAKIRAGRAM
WARD NO. -6

P.O. AND P.S.- FAKIRAGRAM

DISTRICT- KOKRAJHAR
PIN- 783345

ASSAM.

3: ADITYA SHAH
SON OF SHIU NATH SHAH

RESIDENT OF PACHAGARH

FAKIRAGRAM
WARD NO. -6

P.O. AND P.S.- FAKIRAGRAM

DISTRICT- KOKRAJHAR

PIN- 783345

ASSAM

VERSUS

BAJRANG AGARWAL @ HANUMAN AGARWAL
SON OF LATE FULCHAND AGARWAL,
RESIDENT OF PACHAGARH,
FAKIRAGRAM, WARD NO. -6,
P.O. AND P.S.- FAKIRAGRAM,
DISTRICT- KOKRAJHAR, PIN- 783345,
ASSAM.

Advocate for the Petitioner : MR. A IKBAL

Advocate for the Respondent :

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

17.07.2024

Heard Mr. A. Ikbal, learned counsel appearing for the petitioners.

2. This is an application under Article 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure challenging the impugned order dated 15.06.2024 passed by the learned Civil Judge (Jr. Div.), Kokrajhar in Title Suit No.15/2024.

3. By the impugned order, the learned trial court refused to grant time to the defendants/ petitioners to file the written statement because the 90 days time as mandated by Order 8 Rule 1 of the Code of Civil Procedure had elapsed.

4. I have considered the submissions of Mr. Ikbal. I have also gone through the impugned order.

5. Procedures are handmaid of justice. Moreover, it is a settled position of law, that the

period of 90 days as mandated by Order 8 Rule 1 of the CPC is not mandatory rather it is directory.

6. Therefore, the courts should exercise judicial mind in a positive manner.
7. I find that the learned trial court has not exercised the judicial mind in a positive way.
8. The impugned order is bad in law and stands set aside.
9. The learned trial court is directed to accept the written statement filed by the petitioners/defendants.

With the aforesaid direction, the revision petition stands disposed of.

JUDGE

Comparing Assistant