

GAHC010197022024



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

Case No. : CRP(IO)/391/2024

MAMPI GOGOI

W/O- LATE TRIDIP GOGOI, PROPRIETOR OF M/S ARADHYA BUILDERS AND DEVELOPERS, H. NO. 5, JONAKI PATH, S.K. BARUAH ROAD, RUKMINI NAGAR, P.S. DISPUR, GHY-6, DIST. KAMRUP(M), ASSAM, R/O- ARADHYA APARTMENT, BLOCK-1, 5TH FLOOR, FLAT NO. 5B, SAMSHAN ROAD, NEAR TORAJAN MANDIR, JORHAT, PIN- 785001.

VERSUS

PRANJOL JYOTI SARMAH

S/O- SRI DULAL CH. SARMAH, R/O- OIL INDIA LTD., CHEMICAL DEPARTMENT, DULIAJAN, P.O. AND P.S. DULIAJAN, DIST. DIBRUGARH, ASSAM, PIN- 786602.

Advocate for the Petitioner : MR. S P SHARMA,

Advocate for the Respondent : ,

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

30.09.2024

Heard Mr. S.P. Sharma, learned counsel for the petitioner.

2. This petition under Article 227 of the Constitution of India, the petitioner, namely,

Smt. Mampi Gogoi, has put to challenge the correctness or otherwise of the order dated 03.05.2024, passed by the learned Civil Judge (Senior Division), Jorhat, in Title Suit No.05/2024.

3. It is to be noted here that vide impugned order dated 03.05.2024, the learned Civil Judge (Senior Division), Jorhat, has refused to extend time for filing written statement, as prayed for by the petitioner/defendant in her Petition No.1019/2024. It is also to be noted here that in the Petition No.1019/2024, the petitioner had prayed for granting her further 2(two) weeks' time on account of sudden demise of the petitioner's husband and also on account of her ill health and also on account of her failing to obtain certain documents with regard to the business of her deceased husband.

4. Mr. Sharma, learned counsel for the petitioner submits that the husband of the petitioner died on 18.01.2021 leaving behind the petitioner and her minor daughter and she could not file written statement on the 89th day of receipt of notice by her and therefore, she had filed one application for extension of 2(two) weeks' time to file written statement. But, the learned Trial Court has dismissed the same. Mr. Sharma further submits that the provision under Order 8 Rule 1 CPC is directory in nature and the period of 90 days can be extended if sufficient cause is shown and the case in hand also the petitioner has shown sufficient cause and therefore, Mr. Sharma submits that the impugned order, dated 03.05.2024, refusing to grant time to file written statement to the petitioner is illegal and arbitrary and therefore, it is contended to set it aside.

5. Having heard the submission of learned counsel for the petitioner, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 03.05.2024.

6. It appears that the petitioner has received the summon on 05.02.2024, and on the 89th day, i.e. on 03.05.2024 she had filed a petition before the learned Trial Court for extension of 2(two) weeks' time to file the written statement. But, the learned Trial Court

has dismissed the same on the ground that no exceptional circumstance or reason is shown by the petitioner/defendant. But, having gone through the Petition No.1019/2024 filed on 03.05.2024, it appears that she has assigned good reason for failing to file written statement within the stipulated period. It is stated that her husband died suddenly on 18.01.2021, and that she is suffering from ailment and also she could not obtain some relevant documents with regard to business of her deceased husband. But, these grounds eschewed consideration of the learned Trial Court. That being so, the impugned order dated 03.05.2024 is illegal and arbitrary and fails to withstand the legal scrutiny and therefore, the same stands set aside and quashed.

7. It is provided that the learned Trial Court shall accept the written statement filed by the petitioner/defendant along with the Petition No.1019/2024 and thereafter, proceed to hear the matter in accordance with law.

8. In terms of above, this civil revision petition stands disposed of at this motion stage itself.

Sd/- Robin Phukan
JUDGE

Comparing Assistant