

GAHC010246722024



2024:GAU-AS:11839

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

**Case No. : CRP(IO)/487/2024**

MANOJ KUMAR SARMA  
S/O LATE SATISH CH. SARMA, R/O JOYANAGAR, HOUSE NO. 22(A),  
NAMGHAR PATH, P.O.-KHANAPARA, P.S.-DISPUR, GUWAHATI-781022,  
KAMRUP, ASSAM

VERSUS

RATUL CHANDRA DAS  
S/O JOGENDRA NATH DAS, R/O BARPETA, GANAK KUCHI, NASATRA, P.S.  
AND DIST- BARPETA, ASSAM, PIN-781301

**Advocate for the Petitioner** : MR. M DUTTA, L DEKA, MS S DEV

**Advocate for the Respondent** : ,

**BEFORE**  
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**Date : 27.11.2024**

Heard Mr. M. Dutta, learned counsel for the petitioner.

2. In this petition, under Article 227 of the Constitution of India, the petitioner has put to challenge the correctness or otherwise of the order dated 30.10.2024, passed by the learned Civil Judge, Barpeta, in Money Suit No.

2/2021.

3. It is to be noted here that vide impugned order dated 30.10.2024, the learned trial Court had closed the cross-examination of the defendant's witness Nos. 1 and 2 and fixed the matter for argument on 20.11.2024 and as per Mr. Dutta, it has been re-fixed on 19.12.2024.

4. Mr. Dutta, learned counsel for the petitioner submits that the case was fixed on 30.10.2024, for cross-examination of D.W.1 and D.W.2, but on that day, the petitioner who hails from Guwahati was unwell and visited his Doctor and his wife, D.W.2 also could not appear before the learned trial Court as she was also busy with his treatment, and therefore, one petition, No. 1922/2024, was filed before the learned trial Court by their engaged counsel, but the same was dismissed and the case was fixed for argument. Mr. Dutta further submits that the petitioner may be given one chance for cross-examination of D.W.1 and D.W.2 and that on account of his ailment, he could not appear before the learned trial Court on 30.10.2024 and in support of his submission, Mr. Dutta has referred to one medical prescription issued by Dr. B.C. Das of Guwahati.

5. Having heard the submission of Mr. Dutta, 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 30.10.2024.

6. It appears that the case was pending on 30.10.2024, for cross-examination of D.W.1 and D.W.2 and the petitioner herein has shown sufficient reason for their failing to remain present before the learned trial Court on that day. Further, it is well settled that right to cross-examination of a witness, apart from being a natural right, is a statutory right. Section 137 of the Indian Evidence Act, 1872, provides for examination-in-chief, cross-examination and re-examination and Section 138 confers a right on the adverse party to cross-

examine a witness who had been examined-in-chief, subject of course to expression of his desire of the same and indisputably, such an opportunity has to be granted to the petitioner herein.

7. Considering the above aspect, and also considering the submission of Mr. Dutta, learned counsel for the petitioner, this Court is inclined to allow the petition. The impugned order dated 30.10.2024, stands set aside and quashed. The learned trial Court is directed to afford only one opportunity to the petitioner for cross-examination of D.W.1 and D.W.2. However, the petitioner has to deposit a cost of Rs. 5,000/- before the learned trial Court on the next date fixed, i.e. 19.12.2024.

10. In terms of above, this revision petition stands disposed of.

**JUDGE**

**Comparing Assistant**