

GAHC010254412023



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

Case No. : CRP(IO)/366/2023

KUMUD CH KUMAR AND 5 ORS
S/O LATE KUSHAL KUMAR, R/O VILL-PACHIM NAOKATA, P.O.-NAOKATA,
MOUZA-DEFELI, P.S.-GOESWAR, DIST-BAKSA, B.T.R., ASSAM

2: BHASKAR JYOTI KUMAR
S/O LATE RAMESH KUMAR
R/O VILL-PACHIM NAOKATA
P.O.-NAOKATA
MOUZA-DEFELI
P.S.-GOESWAR
DIST-BAKSA
B.T.R.
ASSAM

3: SHASHADHAR KUMAR
S/O LATE RAMESH KUMAR
R/O VILL-PACHIM NAOKATA
P.O.-NAOKATA
MOUZA-DEFELI
P.S.-GOESWAR
DIST-BAKSA
B.T.R.
ASSAM

4: CHANDI KUMAR
S/O LATE BHENDU RAM KUMAR
R/O VILL-PACHIM NAOKATA
P.O.-NAOKATA
MOUZA-DEFELI
P.S.-GOESWAR
DIST-BAKSA
B.T.R.
ASSAM

5: NAREN KUMAR
S/O BHENDU RAM KUMAR
R/O VILL-PACHIM NAOKATA
P.O.-NAOKATA
MOUZA-DEFELI
P.S.-GORESWAR
DIST-BAKSA
B.T.R.
ASSAM

6: NILAKANTHA KUMAR
S/O LATE KUSHAL KUMAR
R/O VILL-PACHIM NAOKATA
P.O.-NAOKATA
MOUZA-DEFELI
P.S.-GORESWAR
DIST-BAKSA
B.T.R.
ASSA

VERSUS

MADAN KUMAR
S/O SRI KHAGEN KUMAR, R/O VILL-PACHIM NAOKATA, P.O.-NAOKATA,
MOUZA-DEFELI, P.S.-GORESWAR, DIST-BAKSA, B.T.R., ASSAM, PIN-781334

Advocate for the Petitioner : Ms. R. Saha

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 24.06.2024

Heard Ms. R. Saha, learned counsel appearing on behalf of the petitioners. None appears on behalf of the respondent on call.

2. The instant proceedings under Article 227 of the Constitution of India has been filed challenging the order dated 05.10.2023 passed in Title Suit No. 16/2023

whereby the learned Court of the Munsiff, Baksa had rejected the written statement filed by the petitioners on the ground that the written statement was filled beyond the period of limitation as stipulated under Order VIII Rule 1 of the Code of Civil Procedure, 1908 (for short “The Code”).

3. This Court duly takes note of that the learned Trial Court vide an order dated 05.09.2023, had permitted the defendant Nos. 1 to 6 who are the petitioners herein to submit the written statement on 05.10.2023. Under such circumstances, this Court is of the opinion that the learned Trial Court could not have then refused to accept the written statement which was filed on 05.10.2023.

4. Accordingly, this Court therefore interferes with the order dated 05.10.2023 and directs the learned Trial Court i.e. the Court of the learned Munsiff, Baksa to accept the written statement filed by the defendant Nos. 1 to 6 who are the petitioners herein and thereupon proceed with the adjudication of Title Suit No. 16/2023.

5. This Court further takes note of that vide an order dated 24.11.2023, further proceedings of Title Suit No. 16/2023 was stayed. The said stay order stands vacated and the parties herein are directed to appear before the learned Court of the Munsiff, Baksa on 22.07.2024 and the learned Trial Court shall thereupon proceed with the adjudication of the suit in accordance with law.

6. With the above observations and directions, the instant petition stands disposed of.

JUDGE

Comparing Assistant