

GAHC010255392024



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

Case No. : CRP(IO)/532/2024

SMT. APARAJITA BHUYAN
W/O SRI DEEPAK KR. BHUYAN, R/O FLAT NO. 1, AVINAV APARTMENT,
JAPORIGOG, GUWAHATI, ASSAM, PIN-781005

VERSUS

MADAN PRASAD SHAH
S/O LATE ALXMI PRASAD SAH, R/O H.NO. 537, G.S. ROAD, P.O. AND P.S.-
DISPUR, GUWAHATI, DIST- KAMRUP (M), ASSAM, PIN-781005, BEING
REPRESENTED BY HIS ATTORNEY SRI DIGANTA SHAHU, AGED ABOUT 42
YEARS, S/O SRI MADAN PRASAD SHAH, R/O H.NO. 537, G.S. ROAD, P.O.
AND P.S.-DISPUR, GUWAHATI, DIST- KAMRUP (M), ASSAM, PIN-781005

Advocate for the Petitioner : DR G J SHARMA, MS. K BHATTACHARYYA

Advocate for the Respondent : ,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

19.12.2024

Heard Mr. G. J. Sharma, learned counsel for the petitioner.

This application has been preferred under Article 227 of the Constitution of India against the order dated 30.10.2024 passed by the learned Civil Judge (Jr. Division) No.2, Kamrup (Metro) in Petition No. 2314 filed by the

defendant/petitioner in TS Case No. 523/2021 whereby the learned trial court has closed the cross examination of prosecution witnesses by rejecting the petition filed by the petitioner/defendant before the trial court.

It is submitted by the learned counsel for the petitioner that as per order dated 3.10.2024, the parties are directed to appear before the Advocate Commissioner on 22.10.2024 as last chance for cross-examination of PWs and the Advocate Commissioner shall submit the report to the court on 30.10.2024 after completing the cross-examination of witnesses. On 30.10.2024, learned Advocate Commissioner submitted report stating that PW-1 and 2 were present along with the learned counsel. However, the learned counsel for the defendant was absent on that day. It is further submitted that on earlier occasion also in absence of learned counsel for the defendant, the evidence of plaintiff was closed and subsequently, further opportunity was given to the defendant to cross-examine the witnesses.

This is the second occasion when the counsel for the defendant remained absent for taking step for the parties. It is further submitted that the petitioner is a poor lady and for the fault of the counsel, the litigant cannot be suffered.

Considering the submission of the learned counsel for the petitioner, this Court is of the view that another chance be provided to the petitioner for cross-examination of PW-1 & PW-2.

Accordingly, Trial Court is directed to do the needful by fixing a date to further proceed with the case.

The order dated 30.10.2024 is hereby set aside.

It is made clear that only one chance be allowed to the petitioner/defendant for cross-examination of PW-1 and PW-2.

Accordingly, the civil revision petition is disposed of.

JUDGE

Comparing Assistant