

GAHC010283572023



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

Case No. : CRP(10)/4/2024

AXIS BANK LIMITED

A BODY CORPORATE CONSTITUTED UNDER THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKING) ACT, 1970, HAVING ITS REGISTERED OFFICE AT TRISHUL, 3RD FLOOR, OPP. - SAMARTHESWAR TEMPLE, LAW GARDEN, ELLISBRIDGE, AHMEDABAD - 380006 AND HEAD OFFICE AT GROUND FLOOR, CHIBBER HOUSE, G.S. ROAD, DISPUR, GUWAHATI - 781005, DISTRICT - KAMRUP (M), STATE - ASSAM AND ONE OF ITS BRANCH OFFICE AT AXIS BANK LIMITED, KOKRAJHAR BRANCH, P.O. AND P.S. - KOKRAJHAR, KOKRAJHAR - 783370, DIST - KOKRAJHAR, STATE - ASSAM AND IS REPRESENTED BY BRANCH MANAGER, AXIS BANK LIMITED, KOKRAJHAR BRANCH, DIST - KOKRAJHAR, STATE - ASSAM

VERSUS

MONICAA BRAHMA AND 3 ORS

W/O LATE ZANDER BRAHMA, R/O VILL - EAST ROWMARI, P.O. - KHAGRABARI, P.S. - DHALIGAON, DIST - CHIRANG (BTC), STATE - ASSAM. SERVICE ALSO TO BE EFFECTED AT - KOKRAJHAR TOWN, WARD NO. 5, (MIJING NWGWR), P.O. AND P.S. - KOKRAJHAR, KOKRAJHAR - 783370, DIST - KOKRAJHAR (BTC), STATE - ASSAM

2:THE BRANCH MANAGER

ADITYA BIRLA HEALTH INSURANCE CO. LIMITED
BONGAIGAON BRANCH
CHAPAGURI ROAD
BOC GATE (BEHIND HDFC BANK LIMITED)
P.O. - BONGAIGAON
BONGAIGAON-783380
DIST - BONGAIGAON
STATE - ASSAM

3:THE BRANCH MANAGER
ADITYA BIRLA HEALTH INSURANCE CO. LIMITED
SHOP NO. G-6
FORT
KACHARI BASTI ROAD
G.S. ROAD
ULUBARI
GUWAHATI - 781007
DIST - KAMRUP (M)
STATE - ASSAM

4:THE MANAGER
ADITYA BIRLA HEALTH INSURANCE CO. LIMITED
CLAIMS DEPARTMENT
5TH FLOOR
C BUILDING
MODI BUSINESS CENTRE
KASARVADAVALI
MUMBAI
THANE WEST-40061

Advocate for the Petitioner : MR. M SHARMA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

10.01.2024

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

This is an application filed under Article 227 of the Constitution of India challenging the orders dated 20.07.2022 and 27.09.2023 passed in Money Suit No. 3/2022 by the learned Civil Judge (Sr. Division), Kokrajhar.

The petitioner is the defendant no. 4 in the Money Suit No. 3/2022. Defendant no. 4 was debarred from filing written statement on the ground that period of 90 (ninety) days as mentioned in the Order 8 of the CPC has already elapsed.

I have considered the submission made by Mr. Sharma.

It is a settled position of law that the provision prescribed by Order 8 of the CPC regarding period of 90 (ninety) days is not mandatory rather it is a directory one. Therefore, while exercising the power, the trial court should have apply judicial mind. The trial court did not do so. Accordingly, the orders dated 20.07.2022 and 27.09.2023 passed in Money Suit No. 3/2022 by the learned Civil Judge (Sr. Division), Kokrajhar are bad in law and set aside.

The defendant no. 4/present petitioner is hereby given one last opportunity to file written statement and thereafter, the trial court shall proceed in accordance with law.

With the above, the civil revision petition stands disposed of.

JUDGE

Comparing Assistant