

*In The High Court At Calcutta
Civil Revisional Jurisdiction*

C.O. 3366 of 2024

**Burdwan Holy Child School, represented by its
Secretary Samir Rout & Anr.**

Vs.

Smt. Jana Goswami & Ors.

Mr. Uttiya Ray,
Mr. Arnab Mandal ...For the petitioners.

Mr. Kartick Kr. Bhattacharya,
Mr. Dhananjoy Mukherjee,
Ms. Soumashree Dutta,
Ms. Papiya Naskar ... For the opposite parties.

The petitioners of the instant application under Article 227 of the Constitution of India are the defendant nos. 1 and 3 to the connected suit for recovery of possession and other ancillary reliefs.

The said suit being Title Suit No. 704 of 2023 is pending before the 2nd Court of learned Civil Judge (Junior Division) at Burdwan, District - Purba Bardhaman.

The learned Trial Judge by the order impugned being Order No. 08 dated September 07, 2024 has refused to accept the belatedly filed written statement of the petitioners and has closed the evidence of the said first witness of the plaintiffs i.e. P.W.₁.

It appears from the record that the written statement though was filed belatedly but it was filed on a date fixed for filing of it, therefore, refusal to accept the said written statement is not justified.

The part of the order impugned whereby the learned Trial Judge has refused to accept the written statement of the petitioners and has closed the evidence of P.W.₁, is set aside subject to the payment of costs of **Rs. 20,000/-** only to the plaintiff.

In view of the acceptance of the written statement of the said defendants, the plaintiff is entitled to file supplementary evidence-in-chief to deal with the allegations made in the said written statement.

This Court is informed that September 25, 2024 is the next date fixed in the suit, on the said date, the plaintiff shall be permitted to tender the said supplementary evidence-in-chief, needless to say upon prior service of a copy of it on the defendant nos. 1 and 3 and the said defendants shall conclude the cross-examination of the P.W.₁ on the said date itself.

Mr. Kartick Kr. Bhattacharya, learned advocate for the plaintiff submits that his client shall not cite any other witness.

Mr. Uttiya Ray, learned advocate for the petitioners submits that his clients shall also cite one witness only.

The defendants shall tender the evidence-in-chief of their witness on the date to be fixed in the suit after conclusion of the evidence of the plaintiff and it is expected that the plaintiff shall conclude cross-examination of the said witness of the defendants on the said date.

The learned Trial Judge, thereafter, shall proceed to dispose of the said suit in accordance with law.

C.O. 3366 of 2024 is disposed of with the above terms.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)