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

Case No. : CRP(IO)/191/2026

SMT. MANORAMA DEVI GARODIA AND 3 ORS.
W/O LATE MURARI LAL GARODIA, R/O BANWRI COLONY, PARBOTIA FEEDER ROAD, P.O., P.S. AND DIST- TINSUKIA, ASSAM, PIN- 786125

2: AVISHEK GARODIA
S/O LATE MURARI LAL GARODIA
R/O BANWRI COLONY
PARBOTIA FEEDER ROAD
P.O.
P.S. AND DIST- TINSUKIA
ASSAM
PIN- 786125

3: VIVEK GARODIA
S/O LATE MURARI LAL GARODIA
R/O BANWRI COLONY
PARBOTIA FEEDER ROAD
P.O.
P.S. AND DIST- TINSUKIA
ASSAM
PIN- 786125

4: SMT. SONU AGARWAL (GARODIA)
W/O SRI BASANT AGARWAL
D/O LATE MURARI LAL GARODIA
R/O DIMAPUR TOWN
NEAR CITY TOWER
P.O. AND P.S.- DIMAPUR
NAGALAN

VERSUS

SMT. NATHIA DEVI AGARWAL
W/O SRI OMPRAKASH AGARWALLA, R/O BANWARI COLONY, PARBOTIA

FEEDER ROAD, P.O., P.S. AND DIST.- TINSUKIA, ASSAM, PIN- 786125, REPRESENTED BY HER ATTORNEY - SRI DEEPAK KUMAR AGARWAL, S/O SRI OMPRAKASH AGARWAL, R/O BANWARI COLONY, PARBOTIA FEEDER ROAD, P.O., P.S. AND DIST- TINSUKIA, ASSAM, PIN CODE- 786125

Advocate for the Petitioner : MR D KALITA, MS R KOUR

Advocate for the Respondent : MR K AGARWAL, MS. P NEOG

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

11.11.2026

1. Heard Mr. D Kalita, the learned counsel for the petitioners. Also heard Mr. K Agarwal, the learned Senior counsel assisted by Ms. P Neog, the learned counsel for the sole respondent.

2. This application under Article 227 of the Constitution of India has been filed by the petitioners impugning the order dated 24/03/2026 passed by the Court of learned Civil Judge, Junior Division, Tinsukia in Title Suit No. 36/2025, whereby the petitioner was not granted leave to file an additional written statement.

3. Learned counsel for the petitioner has submitted that the respondent herein as plaintiff has instituted a civil suit bearing Title Suit No. 36/2025 in the Court of learned Civil Judge, Junior Division No. 1, Tinsukia, seeking relief of recovery of khas possession of the suit premises after evicting the defendants and other consequential reliefs. He submits that after receipt of the summons

from the trial court, the present petitioners appeared before the said court on 11/12/2025 and filed a written statement within 90 days of the receipt of summons.

4. He further submits that as the petitioner on 11/12/2025 i.e., the date when the written statement was filed, could not collect all the relevant documents, hence they filed an application on 11/12/2025 along with the written statement praying for grant of leave to file additional written statement in the suit after obtaining the relevant documents.

5. However, by the impugned order, the trial court declined to grant leave under Order VIII Rule 9 of the Code of Civil Procedure, 1908 to the petitioners to enable them to file additional written statement. The learned counsel for the petitioners submits that Order VIII Rule 9 enables a defendant to file additional written statement apart from filing a defense to a set-off or counterclaim with leave of the court, and the court normally should grant such leave if it furthers the ends of justice.

6. He submits that in the instant case, the trial is yet to be commenced as issues are not yet framed, and as such, the court ought to have granted the leave to the present petitioners to file additional written statement so that real controversy between the parties may be adjudicated by the trial court.

7. The learned counsel for the petitioners further submits that the procedural rules should be so interpreted as to further the ends of justice rather than defeating the same. He also submits that in alternative, the petitioners may be allowed to file appropriate application for amendment of the written statement which has already been filed by them before the trial court. In support of his submission, the learned counsel for the petitioners has cited a

ruling of the Apex Court in the case of ***Ashok Kumar Kalra v. Wing Commander Surendra Agnihotri and Others,*** reported in ***(2020) 2 SCC 394***.

8. On the other hand, Mr. K. Agarwal, the learned Senior counsel appearing for the sole respondent, submits that there is no infirmity in the order of the Trial Court which has been impugned in this CRP. He submits that the provisions contained in Order VIII Rule 9 of the Code of Civil Procedure are apparent that if a defendant intends to file an additional written statement other than a defense to a set-off or counterclaim, the necessity of obtaining leave of the court is there, and in the instant case, the trial court has rejected the prayer for grant of leave mainly on the ground that the petition filed by the petitioners seeking leave of the court under Order VIII Rule 9 CPC was found to be vague and lacking material particulars.

9. He submits that there is no infirmity in the order of the trial court warranting any interference by this court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

10. I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record. I have also gone through the ruling cited by the learned counsel for the petitioner in support of his submission.

11. On a bare perusal of the provisions contained in Order VIII Rule 9 of the Code of Civil Procedure, 1908 it appears that for filing subsequent pleadings by way of defense to set-off and counterclaim, the defendant need not to take any leave of the court. However, apart from the said defense, if the defendant wants to present an additional written statement, leave of the court is necessary, and the trial court may grant such leave when prayed for.

12. In the instant case, it appears that the Trial Court has declined to grant the leave to the petitioners mainly on the ground that the petition seeking leave of the court under Order VIII Rule 9 CPC filed by the petitioner was found to be vague and lacking in material particulars by the trial court. This observation of the Trial Court may not be faulted with, as there is no material on record to suggest that the trial court took an erroneous view of the matter.

13. It is also a settled proposition of law that this court, while exercising its supervisory jurisdiction under Article 227 of the Constitution of India, has to be cautious, and such jurisdiction should be exercised sparingly. Only if the order impugned before it is found to be perverse or found to be without jurisdiction, there may be justification for any interference by this court, which is not the case in the instant case, as such, this court does not find any valid ground justifying its interference with the impugned order by invoking its powers under Article 227 of the Constitution of India.

14. As regards filing of an application by application under Order VI Rule 17 of the Code of Civil Procedure 1908 by the petitioners is concerned, no leave for the same is required. Petitioners may file such an application before the Trial Court, and same may be considered by the Trial Court on its own merit and in accordance with law.

15. The stay of the Title Suit No. 36/2025 pending before the Court of Learned Civil Judge, Junior Division No. 1, Tinsukia, which was granted by this court by its order dated 22/05/2026 is hereby vacated. The Trial Court shall proceed with the trial of the aforesaid suit and shall bring the same to its logical conclusion as expeditiously as possible.

16. Since both the parties are represented by their engaged counsel before

this court, hence it is directed that both the parties shall appear before the Trial Court on **30.11.2026**.

17. In view of the discussions made and reasons cited in the foregoing paragraphs, this CRP is dismissed.

18. Let a copy of this order be furnished to the Trial Court.

JUDGE

Comparing Assistant