GAHC010228012026

2026:GAU-AS:16296

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

Case No. : CRP(IO)/536/2026

SMTI. BARNALI DEKA DAS AND ANR
WIFE OF SRI DHANMONI DAS, RESIDENT OF MAGURPARA, BIJOYNAGAR, CHAYANI, MONIARI, P.O.- ZARUBARI, P.S.- PALASBARI, PIN- 781122 DISTRICT- KAMRUP, ASSAM

2: SMTI. BHANITA DEKA NARZARY @ PUJA DEKA NARZARY
WIFE OF SRI BISWAJIT NARZARY
RESIDENT OF AMINGAON
KALIBARI
GUWAHATI
DISTRICT- KAMRUP (METRO)
ASSA

VERSUS

SMTI. DIPA DEKA @ DEEPA DEKA AND 5 ORS.
WIFE OF LATE MUKUL DEKA, RESIDENT OF MALIGAON, GOSALA, GUWAHATI, P.S.- JALUKBARI, PIN- 781011, DISTRICT- KAMRUP (METRO), ASSAM

2:MISS KABERI DEKA
DAUGHTER OF LATE MUKUL DEKA
RESIDENT OF MALIGAON
GOSALA
GUWAHATI
P.S.- JALUKBARI
PIN- 781011
DISTRICT- KAMRUP (METRO)
ASSAM

3:THE CHAIRMAN
STATE BANK OF INDIA
16TH FLOOR
MADAME CAMA ROAD

NARIMAN POINT
MUMBAI
MAHARASHTRA
PIN- 400021

4:THE BRANCH MANAGER
STATE BANK OF INDIA
ACB
BIJOY NAGAR BRANCH
P.O.- BIJOYNAGAR
PIN- 781122
DIST- KAMRUP
ASSAM

5:THE MANAGING DIRECTOR
CANARA BANK
HEAD OFFICE-112
J.C. ROAD
BANGALORE
PIN- 560002

6:THE BRANCH MANAGER
CANARA BANK
MALIGAON BRANCH
GUWAHATI- 781011
DIST- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. P P DAS, MR. SURAJIT DAS

Advocate for the Respondent : ,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 05-11-2026

Heard learned counsel Mr. S. Das for the petitioners, who have filed this application under Article 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure, 1908, challenging the impugned order dated 26.08.2025 passed by the learned Civil Judge (Senior Division), Kamrup at

Amingaon in Title Suit No. 61/2025 whereby the petition of the present petitioners No. 1 and 2 to accept their written statement was dismissed.

2. It is submitted that both the petitioners are daughters of Late Mukul Deka and they filed their written statement as defendants No. 1 and 2 in connection with Title Suit No. 61/2025, after expiry of the statutory period of 90 (Ninety) days. It is submitted that the petitioners will be highly prejudiced if they are not allowed to submit their written statement as through the plaint, the plaintiffs have not projected the true case.

3. It is submitted that Smti Rekha Deka is the wife of Late Mukul Deka, whose marriage with Mukul Deka was dissolved by a decree of divorce in connection with F.C. (Civil) No. 06/2001 vide order dated 09.11.2001 and after a decree of divorce, Mukul Deka got married to respondent No. 1. It is also submitted that during his lifetime, money lying in two bank accounts of Mukul Deka, was not provided to respondent No. 1 as Mukul Deka in his lifetime nominated the petitioners as nominees relating to money lying in two of his bank accounts. Further it is also submitted that as legal heirs, both the petitioners being daughters, are entitled to land which has been described in the written statement and which has been provided by Mukul Deka during his lifetime to both the petitioners as legal heirs.

4. Mukul Deka was an employee of N.F. Railway and he retired from service on 30.09.2024 and expired on 19.01.2025. Thereafter, the respondents No. 1 and 2, claiming to the be widow and daughter of Late Mukul Deka, instituted Title Suit No. 61/2025, seeking declaration of their rights as Class-I legal heirs of Late Mukul Deka. The facts mentioned above have not been mentioned in the

plaint. The respondents have concealed true facts and these facts have to be disclosed by the petitioners through their written statement as defendants in Title Suit No. 61/2025.

5. The petitioners being legal heirs of Mukul Deka and rightful Class-I legal heirs, cannot be deprived of their right, title and interest of the properties and assets of Mukul Deka. The Title Suit was brought up by the respondents when the death benefits were not provided by the Railways to the respondents/plaintiffs.

6. It is contended that the Title Suit was registered on 01.03.2025 and summonses were issued to petitioners/defendants. On 17.05.2025, the petitioners and the respondent No. 4 entered appearance through their counsel by filing vakalatnama along with petitions No. 1351/2025 and 1352/2025 that they have not received the copies of the plaint and documents. The next date for the suit was fixed on 21.07.2025 for SR/WS/NO. Further, on 31.07.2025, the petitioners filed a petition seeking time to file written statement and this petition was allowed and the next date fixed on 26.08.2025. The copies of the orders dated 17.05.2025 and 31.07.2025 are marked as Annexure-3 and 4 of this petition.

7. On 26.08.2025, the Trial Court rejected the petitioner’s prayer to file written statement, observing that 90 (Ninety) days had elapsed on 15.08.2025 and the grounds shown in the petition for time to file their petition were not sufficient. It is further averred that the plaintiffs have not even furnished the copies of documents to the petitioners and they were directed to furnish copies of documents to the petitioners on 20.11.2025. Moreover, the Court itself fixed

the date for written statement beyond 90 (Ninety) days as the date was fixed on 26.08.2025.

8. It is further submitted that the petitioner No. 1's mother-in-law expired on 06.11.2025 and the Adya Sraddha was held on 21.11.2025. The petitioner No. 1 was absent and was represented by her counsel, but the Trial Court passed an order to proceed *ex-parte* against her. However, vide order dated 19.02.2026, the learned Trial Court set aside the *ex-parte* order dated 20.11.2025 on a petition filed by petitioner No. 2, numbered as petition No. 570/2026. On the same day, the petitioners submitted a written statement, but the Trial Court observed that vide the impugned order dated 26.08.2025 the petitioners are debarred from filing the written statement. The written statement has already been directed to be returned to the petitioners vide order dated 26.08.2025.

9. I have considered the submissions at the bar with circumspection. This petition can be disposed of at the motion stage. Indeed, the written statement was submitted after expiry of 90 (Ninety) days. There were some irregularities. The plaintiffs have not provided copies of documents to the defendants as has been submitted by the petitioners at paragraph 4(vi) of this petition. It is not clear when the petitioners have received summonses, but paragraph 4(iv) reveals that on 17.05.2025 the petitioners had entered appearance along with respondent No. 4. Vide the order dated 26.08.2025 the petitioners' written statement was rejected.

10. Learned counsel for the petitioners has relied on the decision of the Hon'ble Supreme Court in *Bharat Kaira Versus Raj Kishan Chabra* reported in *2022 SCC OnLine SC 613* wherein it has been held that :

"*2. The challenge in the present appeal is to an order passed by the High Court on 12.08.2021 whereby delay of 193 days in filing of the written statement was not condoned.*

3. Admittedly, the suit for injunction filed by the plaintiff is not the one which is governed by the Commercial Court Act, 2015. Therefore, the time limit for filing of the written statement under Order VIII Rule 1 of CPC is not mandatory in view of the judgment of this Court reported as 'Kailash V. Nankhu' reported in (2005) 4 SCC 480.

4. In view of the aforesaid judgment, we find that the delay in filing of the written statement could very well be compensated with costs but denying the benefit of filing of the written statement is unreasonable."

11. Reverting back to this case, it is held that the submission of the learned counsel for the petitioners is taken into consideration. For the interest of justice, the petitioners may be allowed to place their case before the Court through their written statement and the Trial Court can adjudicate if any facts have been concealed by the plaintiffs.

12. A pragmatic view is taken and for the interest of justice, relying on the decision of the Hon'ble Supreme Court in Bharat Kaira (supra), this petition is allowed. The order dated 26.08.2025 passed by the learned Civil Judge (Senior Division), Kamrup at Amingaon in Title Suit No. 61/2025, is set aside.

13. The learned Trial Court is directed to accept the written statement which has been directed by the Court to be returned to the petitioners/defendants.

14. In terms of the above observations, this petition stands disposed of.

JUDGE

Comparing Assistant