

09.12.2021
(S/L-35)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 3219 of 2019
With
I.A. No CAN 1 of 2019 (Old CAN 9657 of 2019)
I.A. No CAN 2 of 2019 (Old CAN 12578 of 2019)
I.A. No CAN 4 of 2020 (Old CAN 3049 of 2020)
**(The application being CAN 3049 of 2020
is not in file)**

Sri Kartick Dutta
-Vs-
Sri Sambhu Charan Boral & Ors.

Mr. Amiya Kumar Dutta,
Mr. Swadesh Priya Ghosh
..... For the Petitioner.

Mr. Anshuman Chakraborty,
Mr. Prasanta Bishal,

..... For the Opposite Party no. 1.

The revisional application under Article 227 of the Constitution of India is at the instance of defendant no. 1 in a suit for eviction being Title Suit No. 9759 of 2014 pending before the 1st Court of learned Civil Judge(Junior Division), Hooghly Sadar.

The learned Trial Judge by the order impugned being order No. 33 dated March 12, 2019 has accepted belatedly filed written statement of the defendant/opposite party no. 1.

The learned advocate for the defendant/opposite party no.1 submits that his client although has filed the written statement 94 days after his appearance in the suit but the

application for acceptance of the said written statement was filed long time thereafter on January 25, 2019.

The filing of written statement within the time prescribed under Order VII Rule 1 of the Code of Civil Procedure is the rule; departure therefrom is the exception.

The defendant cannot expect that the length of the delay in filing the written statement would be viewed lightly merely because he has put such written statement on record relatively within a reasonable time after his appearance, since he approached the learned Trial Judge for acceptance of the said written statement almost two years after his appearance, causing thereby substantial delay in the progress of the suit.

However, the learned Trial Judge in exercise of his discretion has accepted the written statement filed by the defendant no. 1, this Court is not inclined to interfere with such exercise but the plaintiffs must be compensated with appropriate costs.

The written statement filed by the defendant no.1 be accepted subject to payment of costs of Rs.20,000/-(Rupees twenty thousand) to the plaintiff within three weeks from date.

In view of the age of the suit and its nature, the learned Trial Judge is requested to dispose of

the pending applications as expeditiously as possible in accordance with law without granting any unnecessary adjournment to either of the parties.

C.O 3219 of 2019 is disposed of with the above terms.

In view of the disposal of the revisional application, the connected applications being I.A. No CAN 1 of 2019 (Old CAN 9657 of 2019) and I.A. No CAN 2 of 2019 (Old CAN 12578 of 2019) have become infructuous and are disposed of accordingly.

The application being I.A. No CAN 4 of 2020 (Old CAN 3049 of 2020) is appearing in the list but not in record and the same is also disposed of accordingly.

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.)