

24.08.2022
KC(12)

F.M.A.T. 282 of 2022
Manika Biswas
-versus-
Laxmi Bhowmick
With
CAN 1 of 2022

Mr. Anjan Banerjee.....For the appellant.

Mr. Tanmoy Mukherjee,
Ms. Tora Ganguly,
Ms. Sharmishtha China.....For the respondent.

The suit is of 2021.

We do not think that the appellant/defendant is guilty of such laches so as to shut out her defence. In any case, the Supreme Court in a decision reported in (2005) 4 SCC 480 (Kailash –vs- Nankhu and Ors.) and the recent unreported decision of the same court decided by it on 9th May, 2022 [Civil Appeal No. 3788 of 2022 (@ SLP(C) No. 63 of 2022) : Bharat Kalra –vs- Raj Kishan Chabra] has opined that in a civil non-commercial matter the stipulation of the time limit in the Code of Civil Procedure for filing the written statement is directory.

We grant time to the appellant/defendant to file her written statement latest by 12th September, 2022.

We request the learned court below to expedite hearing of the suit so that it may be decreed not later

than six months from the date of filing of the written statement, preferably.

The above direction for filing written statement is peremptory.

Still, if no written statement is filed by 12th September, 2022, the learned trial judge would have the liberty to proceed with the suit ex-parte and pronouncing an ex-parte decree.

The interim order passed by the learned court below shall continue till disposal of the suit or until further order of that court, whichever is earlier. This will not prevent the either party from seeking further interim relief from the court pending determination of the suit.

We hereby dispose of the appeal (F.M.A.T. 282 of 2022) and the connected application (CAN 1 of 2022) on dispensing with all formalities.

No order as to costs.

(I.P. MUKERJI, J.)

(SUBHENDU SAMANTA, J.)