

16.06.2022
Item no.9
Aloke

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CO 63 of 2022

**Sri Basudev Shil @ Basudeb Sil
Vs.
Sri Binoy Das**

Mr. Suraj Rajak, Advocate
Mr. Abhilash Mittal, Advocate
...For the petitioner

Mr. Rajat Das, Advocate
Mr. Bijoy Bikram Das, Advocate
... For the Defendants

The revisional application is directed
against the Order No. 16 dated May 6, 2022.

By the impugned order, the learned Trial
Judge was pleased not to accept the written
statement filed on behalf of the petitioner and was
pleased not to recall the order setting the suit for
ex parte hearing.

The learned Advocate appearing for the
petitioner relies upon an order of the Hon'ble
Supreme Court passed in Civil Appeal No.3788 of
2022 (Bharat Kalra vs. Raj Kishan Chabra) dated
May 9, 2022 and submits that the delay in filing
the written statement be condoned.

Learned Advocate appearing for the
petitioner submits that the suit is for eviction. The
writ of summons was served on the petitioner on

November 8, 2019. The statutory period to file written statement expired on March 7, 2020. The first lockdown for pandemic was on March 24, 2020. Therefore, there is no conceivable reason as to why a written statement which was sought to be filed on May 25, 2021 should be accepted. According to him, there is no infirmity in the impugned order.

In the facts of the present case, the writ of summons was served on the petitioner on November 8, 2019 with the time to file written statement expiring on March 7, 2020. The first lockdown for pandemic was on March 24, 2020.

The Court resumed functioning subsequently. There is no reason as to why the period should be condoned.

In the facts of the present case, the written statement was sought to be filed on May 25, 2021 that is after expiry of a period in excess of one year six months.

In **Bharat Kalra (supra)** the Supreme Court condoned the delay of 193 days. Here, the delay is in excess of one year and six months.

Consequently, I find no irregularity and/or infirmity in the impugned order dated May 6, 2022 warranting any interference by the High

Court under Article 226 of the Constitution of India.

CO 63 of 2022 is, therefore, dismissed without any order as to costs.

(Debangsu Basak, J.)