

February 5, 2024
Sl. No.7
Court No.19
s.biswas

CO 1822 of 2023

Sri Swapan Das
vs.
Sri Sufalchandra Som

Mr. Prasanta Kumar Pakrashi
... for the petitioner

This court does not find any reason to interfere with the order dated May 15, 2023, passed by the learned Civil Judge (Senior Division), Serampore, Hooghly, in Title Suit No.46 of 2020.

By the order impugned, the learned court set aside the order by which the suit was fixed for ex parte hearing. The learned court held that written statement had been filed on June 14, 2022, which was well within 120 days from the date when the period of limitation started running, i.e., from March 1, 2020.

Reference was made to the decision of the Hon'ble Apex Court with regard to the extension of the period of limitations during the COVID pandemic. The court was of the view that the period between March 20, 2020 and February 28, 2022, had been exempted and the party who could not file the written statement within the such exempted, would not be debarred from contesting the suit. The learned court was of the view that there was justification to allow the prayer of the defendant.

The learned advocate for the petitioner challenges the afore-mentioned order on the following grounds:

- a) During the COVID period, another suit was filed by the defendant against the petitioner, before another court;
- b) The affidavit-in-chief was also filed in the said proceeding during such period;
- c) If the defendant could take steps in his own suit, nothing precluded the defendant from filing the written statement in time, in the present suit.

This court is not inclined to upset the order which has already been passed. The learned Civil Judge (Senior Division), Serampore, has exercised discretion and has come to the conclusion that the benefit of the orders of the Hon'ble Apex Court in Misc. Application 21/2022, Misc. Application 661/2021 and Writ Petition No.03/2020, in computing the period within which the written statement ought to have been filed, should be available to the defendant.

Under such circumstances, the revisional application is disposed of without any interference. As the suit has been filed in 2020 and sufficient time was lost due to COVID pandemic, the plaintiff should not suffer further. The suit should be expedited.

Hearing of the injunction application, should be completed within two months from the next date. Thereafter, the suit shall proceed expeditiously and be disposed of on an urgent basis.

The revisional application is accordingly disposed of.

All the parties are directed to act on the basis of the server copy of the order.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)