

22.03.2024
Item No.28
Ct. No. 7
KS

C.O. 3483 of 2023
Sri Satyajit Ghosh Chowdhury & Anr.
Versus
Smt. Shefali Mondal & Ors.

Mr. Saumyen Datta
Mrs. Dolon Dasgupta
.....For the Petitioners
Mr. Ayan Banerjee
Ms. Debjani Sengupta
Ms. Paulomi Ghosh
.....For the O.P. Nos.1 to 3

1. This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order No.10 dated 8th August, 2023 passed by the learned Civil Judge (Senior Division), Chandernagore, District – Hooghly in Title Suit No.18 of 2022. By the order impugned, the written statement filed by the defendants/opposite party nos.1 to 3 herein was accepted.
2. The learned advocate appearing for the petitioners submits that the written statement filed by the opposite party nos.1 to 3 herein long after the expiry of the period stipulated under order 8 Rule 1 of the Code of Civil Procedure was accepted. It is further submitted

by the learned advocate that the learned Trial Judge accepted the said written statement without recording any satisfaction that due to unforeseen facts and circumstances, the said opposite parties were prevented from filing the written statement within the said time frame.

3. Mr. Banerjee, learned advocate appearing for the opposite party nos.1 to 3 submits that the opposite parties applied under Order 11 Rule 12 and 14 of the Code of Civil Procedure for a direction upon the plaintiff to file the development agreement, which is the subject-matter of the suit and immediately after the plaintiffs have filed the said development agreement, the opposite parties approached the Court and prayed for extension of time to file the written statement and the written statement was filed within the extended time limit granted by the learned Trial Judge.
4. Heard the learned advocates for the parties and perused the materials placed.
5. Record reveals that the defendants/opposite party nos.1 to 3 filed the petition praying for time to file the written statement on the ground that unless the original development agreement is produced by the

plaintiffs, it is not possible for them to file the written statement. The application under Order 11 Rule 12 and 14 of the Code of Civil Procedure was allowed on 10th November, 2022. The plaintiffs took time to comply with such direction passed by the learned Trial Judge for production of documents and only on 15th February, 2023, the plaintiffs filed the original development agreement, which was kept with the record. Thereafter, the said opposite parties filed the petition praying for time to file the written statement specifically mentioning therein, the grounds for which such time was necessary. The learned Trial Judge upon being satisfied with such grounds allowed the defendant nos.1 to 3 to file their written statement on 19th June, 2023. However, on 19.06.2023 in view of the joint resolution of the Bar Association, the case stood adjourned for the ends of justice and the learned Trial Judge fixed 8th August, 2023 for filing of written statement. It is not in dispute that on that date i.e. 8th August, 2023, the written statement was filed by the defendant nos.1 to 3. The earlier orders passed by the learned Trial Judge allowing extension of time to file written statement by the defendant nos.1 to 3 were also

not challenged by the plaintiffs. The written statement having been filed within the extended time limit, this Court is of the considered view that no detailed reasons for acceptance of written statement in the facts of the case on hand was necessary.

6. The learned advocate appearing for the petitioners places reliance upon a decision of the Hon'ble Supreme Court in the case of *Aditya Hotels (P) Ltd. Vs. Bombay Swadeshi Stores Ltd. & Ors.* reported at *AIR 2007 SC 1574*. In the said decision, the Hon'ble Supreme Court after taking into consideration its own decision in the case of *Kailash Vs. Nanhku & Ors.* reported at *AIR 2005 SC 2441* held that extension of time shall be held by way of exception and for reasons to be recorded in writing.
7. As observed hereinbefore that the learned Trial Judge being satisfied with the grounds for extension of time to file written statement allowed such prayer and, therefore, there was no necessity to record further reasons for accepting the written statement filed within the time limit stipulated by the learned Trial Judge by its earlier order.

8. For the reasons, as aforesaid, this Court is not inclined to interfere with the exercise of discretion by the learned Trial Judge accepting the written statement filed by the defendant nos. 1 to 3.
9. Accordingly, C.O. 3483 of 2023 stands dismissed without however any order as to costs.
10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)