

M/L- 848
11/09/2025
Ct. No.-6
Aritra

C.O. 615 of 2025

**Ashok Kumar Jaiswal
Vs.
Tapan Dey & Anr.**

Mr. Arun Pahari
Mr. Arkajyoti Pahari
Ms. Gargi Maity
Mr. A. Mandi

....for the petitioner

Mr. Anirban Roy

....for the opposite party No.1

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against the orders being Nos.111 and 112 dated August 14, 2024 and November 29, 2024, both passed by the learned Judge, 10th Bench, City Civil Court at Calcutta in Title Suit No.1253 of 2009.

By the order dated August 14, 2024, the prayer for adjournment was rejected. By the order dated November 29, 2024, the additional written statement was rejected as the same was filed at a belated stage. By the said order, the cross-examination of P.W.1 was also closed.

The learned advocate appearing for the petitioner submits that the prayer for adjournment was made on the ground that the learned advocate, who was conducting the case of the petitioner before the learned trial judge was ill and he had to undergo a bypass surgery. He submits that on account of the illness of the

learned advocate of the petitioner the additional written statement could not be drafted within time.

The learned advocate for the opposite party vehemently opposes the prayer of the petitioner. He submits that the petitioner intentionally caused delay in filing the additional written statement. The petitioner also took an adjournment on frivolous ground and refused to cross-examine the P.W.1 and for such reason the learned trial judge was right in closing the cross-examination of P.W.1.

After going through the materials on record, this Court finds that the petitioner has annexed the medical documents of the learned advocate. It appears therefrom that the learned advocate was suffering from illness and also had to undergo a bypass surgery. The petitioner had engaged a lawyer to conduct his case. A litigant has to depend upon the advocate for the purpose of drafting pleadings, evidence and for conducting the cross-examination.

Thus, this Court is, therefore, of the considered view that the petitioner has satisfactorily explained the delay in filing the additional written statement.

For all the reasons as aforesaid, this Court is inclined to interfere with the orders impugned.

Accordingly, the order being No.112 dated November 29, 2024 insofar as it relates to rejection of the additional written statement and for closing the evidence of P.W.1 is concerned is set aside. It is, however, made

clear that other portions of the order dated November 29, 2024 is not interfered with by this Court.

The learned trial judge is directed to accept the additional written statement of the petitioner. The petitioner shall be permitted to cross-examine the P.W.1 on the next date fixed.

The opposite party is directed to produce the P.W.1 on the next date fixed before the learned trial judge.

With the above observations and directions, CO 615 of 2025 stands disposed of.

The learned trial judge is requested to proceed with the suit in accordance with law and make an endeavour to dispose of the same as expeditiously as possible but preferably by the end of June, 2026 without granting any unnecessary adjournments to either of the parties.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)