

Court No. 6
(265719)

05.03.2025
(AD 16)
(S. Banerjee)

CO 760 of 2025

Nilanjana Roy
Vs.
Pinaki Majumder & Anr.

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Atish Ghosh
Ms. Antara Dey

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for partition and is directed against an order being no. 6 dated February 26, 2024 and the order being no. 9 dated January 6, 2025, passed by the learned Judge, Xth Bench, City Civil Court at Calcutta in Title Suit No. 1469 of 2023.

By the order dated February 26, 2024, the prayer for extension of time to file the written statement was allowed and May 6, 2024 was fixed for filing of the written statement. By order dated January 6, 2025, the written statement filed by the opposite parties on May 6, 2024 was accepted.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that Order 8 Rule 1 of the Code of Civil Procedure prescribes a time limit for filing the

written statement. He submits that the Court can grant extension of time to file written statement but the same has to be for reasons to be recorded in writing. He further submits that the learned trial Judge without recording its satisfaction as to the ground for which the opposite parties did not file written statement within the prescribed time limit, accepted the written statement filed beyond the statutory time limit.

It has been stated in the civil revisional application that defendant no. 1 entered appearance in the suit on August 28, 2023 and the defendant no. 2 entered appearance in the suit on December 1, 2023. February 26, 2024 was fixed for filing written statement by the defendants. On that date the defendants/opposite parties filed a petition praying for extension of time and the learned trial Judge after considering the said application, allowed the prayer for extension of time and fixed May 6, 2024 for filing written statement. The written statement was filed on May 6, 2024 along with an application under Section 151 of the CPC praying for acceptance of the written statement.

The learned trial Judge by an order being no. 7 dated May 6, 2024, fixed August 28, 2024 for hearing

of the injunction application and for hearing of the petition under Section 151 of the Code.

On August 28, 2024, the hearing of the injunction application as well as the hearing of the application under Section 151 of the CPC was adjourned on the ground that a resolution was taken by the local Bar Association not to pass any adverse order.

The application under Section 151 of the CPC came up for hearing on January 6, 2025 and the learned trial Judge accepted the written statement which was filed on May 6, 2024. The prayer of the defendants/opposite parties for extension of time to file written statement, was allowed by order dated February 26, 2024.

At this stage it would be relevant to take note of the conduct of the petitioner herein who is alleging that there has been a delay in the further proceeding of the partition suit on the ground of belated filing of written statement. The petitioner did not take any step to challenge the order dated February 26, 2024 by virtue of which the prayer for extension of time to file written statement was allowed. However, after the written statement was allowed by order dated January 6, 2025, the petitioner approached this Court by filing an application under Article 227 of the

Constitution of India only on February 28, 2025. Therefore, the petitioner sought to challenge the order dated February 26, 2024 after lapse of more than a year from the passing of such order.

Though there is no prescribed period of limitation for filing an application under Article 227 of the Constitution of India challenging an interlocutory order passed in a suit but it is well settled that the party who is aggrieved against an interlocutory order has to approach the Court within a reasonable period of limitation. One year time, in the considered view of this Court, without any explanation being given in the application under Article 227 of the Constitution of India for such inordinate delay, cannot by any stretch of imagination be said to be a reasonable time to challenge the order dated February 26, 2024.

In view thereof, this Court is not inclined to entertain a challenge to the order dated February 26, 2024 at this belated stage. Since the time limit to file written statement was extended by order dated February 26, 2024 and May 6, 2024 was fixed for filing of the written statement and the written statement was filed on May 6, 2024, this Court is of the considered view that the learned trial Judge was right in accepting the written statement filed by the petitioner.

For all the reasons as aforesaid, this Court is not inclined to interfere with the orders impugned in this application under Article 227 of the Constitution of India and the same accordingly stands dismissed.

There shall, however, be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)