

Sl. 4
31.07.2025
Court No.6
BP

C.O. 2309 of 2024
With
CAN 2 of 2025

Rama Chakraborty & Anr.
-versus-
Smt. Purabi Chakraborty & Ors.

Mr. Sarbananda Sanyal
..for the petitioners

Mr. Abhijit Ray
Mr. Santu Nandy
..for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against the orders dated 15th January, 2024 and 29th April, 2024 both passed by the learned Judge, 2nd Bench, City Civil Court at Calcutta in Title Suit No. 246 of 2006.

By the order dated 15th January, 2024 the petitions filed by the defendant no.4 praying for permission to file the written statement and for taking of the suit from the ex parte board were allowed subject to payment of cost of Rs.2,000/-. By the order dated 29th April, 2024 the application filed by the defendant no.4 praying for recall of P.W.1 for cross examination stood allowed.

It is now well settled that the prayer for extension of time to file written statement cannot be allowed mechanically and in a routine manner. Only after being satisfied with the grounds for which a defendant could not file the written statement within the stipulated time limit

the court may, for reasons recorded in writing, allow a defendant to file written statement beyond the statutory time limit.

After going through the order dated January 15, 2024 this Court finds that the learned trial judge mechanically allowed the defendant no.4 to file the written statement by only observing that she may be permitted to get a chance to contest the suit. To the mind of this Court the learned trial judge could not have allowed the defendant to permit written statement without considering as to whether satisfactory explanation for belated filing of the written statement is given.

For such reasons, this Court is inclined to interfere with the order dated 15th January, 2024. Similarly the learned trial judge allowed the prayer for recalling for further cross examination by a totally non speaking order.

For such reasons, this Court is also inclined to interfere with the order dated 29th April, 2024. The orders impugned are accordingly set aside. The applications filed by the defendant no.4 praying for permission to file a written statement and for taking of the suit from the ex parte board as well as the application praying for recall of P.W.1 for further cross-examination are restored to the file of the learned trial judge. The learned Judge, 2nd Bench, City Civil Court at Calcutta is directed to decide the said applications afresh after giving an opportunity of hearing to the respective parties and by passing a reasoned order

as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the above observations and directions, C.O. 2309 of 2024 stands disposed of. The application being CAN 2 of 2025 also stands disposed of.

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

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)