

Court No. 6
(265719)

22.05.2025
(AD 45)
(S. Banerjee)

CO 3690 of 2024

Samar Chowdhury
Vs.
Bipul Bhattacharjee & Ors.

Mr. Debjit Mukherjee
Mr. Kaustav Bhattacharya
Ms. Priyanka Jana

...for the petitioner

Mr. Dhananjay Banerjee
Ms. Anima Maity

...for the opposite party nos. 1 to 4

This application under Article 227 of the Constitution of India is at the instance of the defendant no. 1 and is directed against order dated September 18, 2024 passed by the learned Civil Judge (Sr. Division) 1st Court, Alipore in Title Suit No. 361 of 2023. By the order impugned the learned judge refused to accept the written statement filed by the defendant no. 1 on the ground that the same was filed beyond the stipulated time limit.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that since the petitioner is a senior citizen and took some time to collect the necessary papers and documents necessary for the purpose of preparation of the written statement, there was a delay in filing the written statement.

Learned advocate appearing for the opposite party nos. 1 to 4 seriously opposes the prayer of Mr. Mukherjee. He submits that no reasonable explanation has been given in the application praying for acceptance of the written statement.

Heard the learned advocates for the parties and perused the materials placed.

It is not in dispute that the written statement was filed beyond the stipulated time limit. However, taking note of the fact that the petitioner is a senior citizen and the reasons stated in the application is that the petitioner took time to collect the necessary papers and documents for preparation of the written statement, this court is inclined to interfere with the order impugned and allow the written statement to be taken on record subject to payment of cost of Rs. 5,000/- by the petitioner to the opposite party no. 1 herein by tomorrow, i.e., May 23, 2025. Such cost shall be tendered to the learned advocate-on-record of the opposite parties appearing before this court within the time limit as mentioned hereinbefore and the learned advocate-on-record shall issue an acknowledgement in that regard.

For the reasons as aforesaid, the order dated September 18, 2024 is set aside. The learned trial

judge is directed to take the written statement filed by the defendant no. 1 on record.

The learned Civil Judge (Sr. Division) 1st Court Alipore is requested to proceed with the suit in accordance with law and make an endeavour to see that the same is disposed of as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

It is, however, made clear that in the event the cost as directed above is not paid within the time limit as mentioned hereinbefore, this order shall stand automatically recalled without any further reference to this court.

(Hiranmay Bhattacharyya, J.)