

15.12.2025
Item No.10
Ct. No. 6
Aloke/sg

CO 3944 of 2025

**Nopany Education Trust & Ors.
Vs
Dayal Commercial Company Pvt. Ltd. & Ors.**

Mr. Meghajit Mukherjee
Ms. Sonia Das
Ms. Namrata Roy Chowdhury
... for the petitioners

Mr. Malay Dhar
Mr. Sandeep Prasad Shaw
Ms. Priyanka Gupta
Mr. Aman Kumar Singh
Mr. Bishal Ghosh
... for the opposite party nos. 1 & 2

Ms. Dipanwita Ganguly
Ms. Arpita Chakraborty
... for the opposite party no. 4

Ms. Susmita Chatterjee
Mr. Masum Tarafdar
... for the opposite party no. 3

1. The petitioners are aggrieved by the order dated September 15, 2025 passed by the learned Civil Judge, (Senior Division), 2nd Court, Howrah in Title Suit No. 423 of 2024.

2. By the order impugned, the learned Court refused to accept the written statement which was filed by the defendant nos. 1, 2 and 4 beyond the statutory period of 120 days. There is a delay of 52 days. The Court did not assign any reason for such refusal except that the period as mentioned in the Code of Civil Procedure for filing of the written statement had expired.

3. This suit is not a commercial suit. The law has been well settled. The statutory period within which the written statement shall be filed as per the Code of Civil Procedure, is directory and not mandatory.

4. In the application for condonation of the delay and for acceptance of the belated written statement, the petitioners stated that the defendant no. 1, who was an elderly person was suffering from various ailments. The constituted attorney of the defendant no. 2, who was the defendant no. 4, due to family emergency was out of town and could not obtain all documents and instructions from the defendant no. 2, in order to prepare the written statement.

5. Affidavit-of-service filed be kept with the record. The opposite party nos. 1 and 2 have been served. The opposite party nos. 1 and 2 oppose this application and submit that the petitioners had intentionally delayed the filing of the written statement, only to drag the proceedings.

6. I find that the cause for the delay of 52 days, has explained.

7. Under such circumstances, the learned Court ought to have granted an opportunity to the petitioners to contest the suit. The order impugned is set aside.

8. The written statement shall be accepted on behalf of the defendant nos. 1, 2 and 4. The order that

the suit shall proceed against the said defendants/petitioners ex parte, is also set aside. The petitioners shall be allowed to contest the suit on its own merits. However, the acceptance of the written statement by the petitioners shall be subject to payment of Cost of Rs.10,000/- in cash, to the Juvenile Justice Committee's fund, High Court, Calcutta, to be paid to the State Legal Services Authority, West Bengal (SLSA). Such payment shall be made within a week from the date.

9. The civil revision is thus disposed of.

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

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(Shampa Sarkar, J.)