

09.06.2025
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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

C.O. 58 of 2025

**Sri Umesh Lama
-Vs-
Suman Sengupta**

Dr. Pabitra Pal Choudhury,
Mr. Debanshu Modak

... for the petitioner

Affidavit of service filed in Court today is taken on record.

The petitioner is the plaintiff in a suit being Money Suit No. 40 of 2024 inter alia for malicious prosecution. The petitioner says that after being falsely implicated in a proceeding where the petitioner was honourably acquitted, had filed the said suit on 19th March, 2024. There are five defendants. Defendant nos. 2 to 5 have not entered appearance and the suit has been marked to be proceeded as an undefended suit against the said defendants. The suit was placed in an ex parte board as against the defendant no. 1 as the said defendant no.1 time and again has sought for an adjournment to file written statement but did not file the same. It is the case of the petitioner that without recalling the order by which the said suit was placed in

the ex parte board, the learned Civil Judge (Senior Division), Jalpaiguri had granted time to file written statement on a simplicitor application for adjournment made by the defendant no. 1. The petitioner, therefor, being aggrieved by the order dated 18th February, 2025 has filed the instant revisional application. It also appears that subsequent to order dated 18th February, 2025, a further order was passed on 18th March, 2025 prior to filing of this revisional application. By the said order dated 18th March, 2025 time to file written statement was extended till 22nd April, 2025 as a last chance. However, prior to 22nd April, 2025 the proceedings in connection with the said Money Suit no. 40 of 2024 were stayed by this Court vide order dated 8th April, 2025 passed in this revisional application.

The opposite party remains unrepresented despite service.

After hearing the petitioner and considering the materials on record, I find that no fruitful purpose will be served by staying the proceedings in the suit as it will cause further prejudice to the petitioner being the plaintiff in the said suit although, the learned Advocate for the petitioner may be correct in his submission that in an application for adjournment, the order directing the suit to be placed in ex parte board could not have been recalled particularly in absence of a sufficient cause be shown by the defendant no. 1. Since, the

learned Civil Judge (Senior Division), Jalpaiguri had granted a last chance to file the written statement, I am not inclined to go into the technicalities but only extend the said time period for the filing of the written statement by defendant no. 1 peremptorily till 23rd June, 2025. It is made clear that in the event the defendant no. 1 does not file his written statement within 23rd June, 2025, the said defendant no. 1 shall be precluded from filing his written statement and the suit should be proceeded as an undefended suit as against the said defendant no. 1.

The learned Civil Judge (Senior Division), Jalpaiguri shall make an endeavour to dispose of the suit as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

With the aforesaid direction, the revisional application being C.O. 58 of 2025 is disposed of.

All connected applications, if any, stand disposed of.

Interim order as to the stay of all further proceedings in connection with Money Suit no. 40 of 2024 is vacated.

Since the defendant no. 1 is not appearing, let a copy of this order be served upon the defendant no. 1 as also to the learned Advocate representing defendant no. 1 before the Court of learned Civil Judge (Senior Division) at Jalpaiguri.

Parties are to act on the server copy of this order duly downloaded from the official website of this Court without insisting upon production of a certified copy thereof.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities.

(**Arindam Mukherjee, J.**)