

N.22S1
151/CL

CO 3311 of 2025

Sudip Biswas
v.

Sadhan Biswas & Ors.

05.05.26
DL-05
Ct-06
(S.R.)

Mr. Debjit Mukherjee
Mr. Anirban Pal ... for the petitioner.

Mr. Sounak Bhattacharya
Mr. Anirban Saha Ray ... for the opposite parties.

1. This revisional application is directed against an order dated August 12, 2025 passed by the learned Judge, Bench – IX, City Civil Court, Calcutta in Title Suit No.759 of 2025 whereby the petitioner's request for bringing on record an order dated June 30, 2025 passed by an Hon'ble Division Bench of this Court in FA 257 of 2025 and the petitioner's prayer for extension of time to file written statement were rejected.
2. Mr. Mukherjee, learned advocate appearing for the petitioner submits that the opposite parties have instituted the suit for partition upon an application for probate being Probate Case No.117 of 2012 (renumbered as OC 10 of 2017) filed by the petitioner was dismissed by the learned Judge, 4th Bench, City Civil Court at Calcutta.
3. He submits that the order of dismissal was challenged by the petitioner by filing an appeal

being F.A. 257 of 2025 before this Hon'ble Court. In such appeal, an order had been passed restraining the opposite parties from transferring, alienating, encumbering and/or creating any third party interest in respect of the suit property. It is submitted that in view of the fact that the petitioner was involved in such litigations, the petitioner could not put in the written statement within the time prescribed under Order 8 Rule 1 of the Code of Civil Procedure, 1908 and as such the petitioner prayed for extension of time to file written statement showing the aforesaid causes.

4. It is further submitted that the learned Trial Court has rejected the petitioner's application without appreciating the causes shown, while observing that the statutory time period has elapsed. He next submits that the period mentioned in the aforesaid provision is directory and upon sufficient causes being shown the Court is not powerless to accept written statement even after expiry of the time. It is submitted that in the instant case the extendable outer limit for filing written statement had not yet expired at that time.
5. Mr. Bhattacharya, learned advocate appearing for the opposite parties submits that the order impugned does not suffer from any error.
6. Having heard the learned advocates appearing for the respective parties and having considered the

material on record, this Court finds that the petitioner's prayer for extension of time to file written statement is not absolutely baseless since the delay does not appear to be intentional. It is also noticed that such prayer has been made only once on the date fixed for filing written statement.

7. In such view of the matter, if opportunity to file written statement is not granted to the petitioner, the petitioner's defence would suffer irreparably. This Court is, therefore, inclined to grant one opportunity to the petitioner to file his written statement. Such written statement must be filed within a period of two weeks from date.
8. If the petitioner files his written statement within two weeks from date as directed, the same shall be accepted by the learned Trial Court and the learned Trial Court would proceed with the suit, in accordance with law.
9. It is made clear that the time mentioned hereinabove is mandatory and preemptory and if the petitioner fails the time frame, the petitioner's right to file written statement shall stand closed.
10. Needless to observe that the petitioner shall be entitled to rely on the order passed by the Hon'ble Division Bench of this Court in FA 257 of 2025, which the petitioner sought to bring on record by way of an application.
11. With the aforesaid observations, CO 3311 of

2025 stands disposed of. No costs.

12. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)