

08.05.26
D/L
SI-01
Ct. 06
(Samar)

CO. 3508 of 2025

With

CAN 1 of 2026

Bimal Kumar Nopany (HUF)

Vs.

Reality Complex Pvt. Ltd. & Ors.

Mr. Meghajit Mukherjee,
Ms. Sonia Das,
Ms. Nanrota Roy Chowdhury,
.... for the petitioner.

Mr. Ajit Kumar Chaubey,
Mr. Kushal Chatterjee,
Mr. Harshit Jaiswal,
Ms. Ritika Pipalwa,
... for the Opposite Party No. 1.

Ms. Susmita Chatterjee,
Ms. Masum Tarafdar,
...for the Opposite Party No. 2.

Mr. Dipanwita Ganguly,
Mr. Arpita Chakraborty,
.... for the Opposite Party No. 3.

1. This revisional application assails an order dated August 29, 2025 passed by the learned Civil Judge (Senior Division) 2nd Court at Howrah in Title Suit No. 590 of 2024 whereby the petitioner's prayed to accept the written statement filed belatedly has been rejected by the learned Trial Court.
2. Title Suit No. 590 of 2024 has been filed *inter alia* for a decree of declaration of title; a decree for cancellation of certain deeds of conveyance and for a decree of permanent injunction, by the opposite party no. 1.
3. In the said suit, summons was served on the petitioner on March 11, 2025. The petitioner

entered appearance and prayed for time to file written statement. As prayed for, time was granted to the petitioner to file its written statement however, but the petitioner could not put in the written statement within the time specified by the learned Court.

4. The petitioner, thereafter sought for extension of time to file written statement which was granted on July 08, 2025 thereby fixing August 08, 2025 as the date therefor.
5. Another extension was sought for by the petitioner on August 08, 2025, however, on such date, the issue as regards extension of time was not decided by the learned Trial Court and August 29, 2025 was fixed for orders on the said application.
6. Thereafter, on August 11, 2025 the petitioner sought to file the written statement by filing a “put up” application, thereby, requesting the learned Court to put up the record out of turn. Ultimately, on August 29, 2025 the learned Trial Court, by the order impugned refused to accept the petitioner written statement. Hence the revisional application.
7. Learned advocate appearing for the petitioner submits that the instant suit is an ordinary suit and not a commercial suit and as such, the period prescribed for filing written statement under Order VIII Rule 1 of the Code of Civil Procedure, 1908 is

not mandatory. It is submitted that in the case at hand, the application filed on August 11, 2025 indicates that although the written statement was made ready on August 08, 2025 on which date the same was supposed to be filed as directed by the learned Trial Court by the order dated July 8, 2025 yet, the same could not be filed on the said date since the authorized representative of the defendant no. 1 was out of town and his signatures could not be obtained on the written statement. However, it is contended that the written statement was ultimately filed within three days thereafter i.e. on August 11, 2025.

8. Mr. Chatterjee, learned advocate appearing for the opposite parties submits that although the time indicated in Order VIII Rule 1 of the Code of Civil Procedure is not mandatory yet, it cannot be said that even in ordinary suits, a defendant can come up at any point of time and file written statement according to its whims.
9. Having heard the learned advocates appearing for the respective parties and having considered the material on record, this Court is of the view that since the written statement has been filed by the petitioner within three days of the date fixed therefor by the learned Trial Court and since it is not the case of the parties that the suit is a

commercial suit, therefore, one opportunity must be given to the petitioner to have a meaningful defence in the suit. This is all the more so since the written statement had been made ready by the date fixed for its filing by the learned Trial Court and the same could not be filed due to the absence of the petitioner's authorised signatory. However, keeping in view the fact that August 08, 2025 had been fixed as a last chance by the learned Trial Court, the permission to file written statement and the acceptance thereof would be subject to payment of costs of the Rs. 10,000/-. Such costs must be paid within a week from date. If such costs are paid, the petitioner's written statement which has already been filed before the learned Trial Court by way of put petition on August 11, 2025, shall be accepted by the learned Trial Court and the learned Trial Court shall proceed with the suit thereafter, in accordance with law. The order impugned dated August 29, 2025 stand set aside subject to payment of costs as aforesaid.

10. It is made clear that if the costs indicated herein above are not paid to the opposite party no. 1 i.e. the plaintiff within the time indicated herein above, the written statement filed by the petitioner shall not be accepted and the order impugned shall revive.

11. With the above observations, CO. 3508 of 2025 stands disposed of. There shall be no order as to costs.
12. The learned Trial Court is requested to proceed with the suit and dispose of the same as expeditiously as the business of the learned Trial Court will permit.
13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.
14. CAN 1 of 2026 is an application for vacating the interim order for stay that was passed in CO. 3508 of 2025. Since CO 3508 of 2025 has itself been disposed of therefore CAN 1 of 2026 has been become infructuous and same also stands disposed of accordingly.

(Om Narayan Rai, J.)