

ORDER BELOW EXH-50 IN
RCS No.11/2025,

The present application is filed by defendants under Section 151 of the Civil Procedure Code for setting aside order passed without argument on behalf of defendants dated 23/12/2025.

2. Perused the application. Plaintiff till today not filed say on Exh.50 therefore, Exh.50 proceeded without say of plaintiff. Heard learned Advocate for defendant today at 3.p.m.

3. Considered as per Roznama dated 28/04/2025, the matter is pending for argument on Exh.5 T.I. application. On behalf of defendant various applications are filed since beginning of the suit and delayed the adjudication of application Exh.5. Recording the conduct of defendant on various dates i.e. 06/10/2025, 10/10/2025, 09/12/2025, 23/12/2025, the application Exh.5 proceeded without argument on behalf of defendants. The conduct on behalf of defendant is apparent that they are repeatedly intentionally delaying the adjudication of the application Exh.5. The purpose of Exh.5 is to grant urgent, imminent and time sensitive relief. The plaintiff knocks the doors of justice to get urgent relief if for the years the matter remains pending even for adjudication of Exh.5 the very purpose with which plaintiff came before the Court would become futile and the ulterior purpose of other side would be fulfilled. Keeping all these facts and circumstances the Court proceeds with the matter

to provide relief to the parties according to the procedure of law. It is necessary to decide the matter hearing both the sides. However, when the conduct of the one party causes prejudice to other the Court can not become a mute spectator. Under such circumstances the Court has to protect the rights and interest of both the parties. The only contention on behalf of defendants is to provide them opportunity for hearing on application Exh.5. The other side is present before the Court in person. The learned Advocate on behalf of plaintiff strongly opposed the application for setting aside the no argument order and pressed to pass the order on Exh.5 as per their written argument. Therefore, in largest interest of both the parties, the Court comes to the opinion that as a chance opportunity may be given to the defendant to argue on application Exh.5 with condition to argue forthwith. In this view I pass the following order:-

ORDER

The application is allowed subject to condition to argue on Exh.5 forthwith.

Date : 27/01/2026.

(S.S. Agrawal)
Jt. Civil Judge J.D., Gangapur
Tq. Gangapur.