

Commercial Suit– 02/2023
CNR : WBBD17-000006-2023
JO Code : WB01311

Order No – 06
Dated :06/07/2023

This day is fixed for show cause, WS & hearing of the I.A. No. 03 of 2023.

Both sides file hazira.

It appears from the record that IA no.03 of 2023 has already been disposed of on 17/03/2023.

In the order inadvertently IA no.03 of 2023 has been written instead of IA no. 07 of 2023.

IA no. 07 of 2023 has been filed by the defendant for vacating the interim order of injunction dated 03/05/2023.

The plaintiff has filed WO to the said application today.

The application for acceptance of WS is taken up for hearing.

It appears from the record, that summons were duly received by the defendant on 27/02/2023 the WS ought to have been filed within 30 days.

The provision of Order VIII Rule 1 however lays down that when the defendant fails to file WS within the said period of 30 days, he shall be allowed to file WS on such other day as may be specified by the Court, for reasons to be recorded in writing but it shall not be later than 120 days from the date of service of summons.

In the instant case admittedly the WS has not been filed within 30 days of service of summons , but the same has definitely been filed within 120 days as per Order VIII Rule 1 of C.P. C.

Accordingly the prayer for acceptance of WS is allowed.

The WS is taken on record.

IA no. 08 of 23 dated 06/07/023 is disposed of.

It also appears from the record that IA no. 05 of 2023 filed by the plaintiff U/Or. VI Rule 17 of the C.P. C r/w sec.151 of C.P.C is still pending.

Copy of the said application has been served to the Ld. Advocate for the defendant today in Court.

The defendant is at liberty to file WO, to the said application, if any.
The application for vacating of the interim order being IA no. 07 of 23 is taken up for hearing.

The hearing is concluded.

Fix 28/07/2023 for order.

The plaintiff also files an application for extension of interim order.
Let the same be registered as separate IA being IA no. 09 of 23 dated 06/07/2023.

It is submitted by the Ld. Advocate for the plaintiff that on the last occasion i.e on 08/06/2023 the plaintiff could not take any steps for extending the interim order due to the resolution of the local Bar Association not to participate in Court proceedings.

It is also submitted that there was no laches & negligence on the part of the plaintiff in not taking any steps on 08/06/2023 as the same was beyond his control.

He also submitted that unless the interim order is extended till the next date the plaintiff will be highly prejudiced.

The Ld. Advocate for the defendant did not raise any objection.

Accordingly the prayer for extension of interim order stands allowed.

The interim order is extended till the next date of hearing.

IA no.09 of 23 dated 06/07/2023 stands disposed of.

To date for order & hearing of IA no. 05 of 2023.

D/C by me

Judge, Commercial Court
Asansol

Judge, Commercial Court
Asansol