

T.S. - 689 of 2022
WBSPOE0009612022

Order No. 11 dated 08.12.2023

Today is fixed for hearing of show cause petition and for acceptance of WS filed by the defendant no. 3,4 & 5.

Hazira for the parties are filed.

Plaintiff filed petition for extension.

Defendant no. 3, 4 & 5 by filing show cause and acceptance written statement petition stated that the statutory period for written statement already expired as the plaintiff of instant suit previously filed an earlier suit before a Competent Court, where defendants filed their documents during hearing of the said suit, plaintiff abandoned the earlier suit and filed present suit. Defendant inspite of best efforts could not get documents return on time caused delay in filing written statement. During course of hearing Ld. Advocate for defendants submitted that the no summon was served upon defendants and so, Order 1 Rule 8 C.P.C. is not applicable in respect of defendant nos. 3 to 5.

Plaintiff filed written objection against the petition for acceptance of written statement and stated that inspite receiving summon defendants did not appeared and filed written statement within statutory period due to negligence on their part. Further defendants appeared on 30.11.2022 but file written statement on 02.06.2023. Further defendants fail to show any good or reasonable cause for acceptance of written statement. Now filing of written statement by the defendants are barred in law as per Order 1 Rule 8 C.P.C. Further defendants statement as to best efforts for getting documents are false and fabricated. So, prays for rejection of petition for acceptance of written statement.

Heard Ld. Advocate for both sides. Considered.

On persual of the record it appears that the no summon service return to this Court to show whether summon was served upon defendants or not. Though when defendants appeared on 30.11.2022 the time for filing written statement starts running and so, question of serve does not arise. It further appears that this Court vide order no. 07 dated 04.05.2023 allowed time prayer of the defendants as a last and accordingly defendants filed written statement, acceptance of written statement and show cause petition on next fixed date ie on 02.06.2023.

Under the aforesaid facts and circumstances, this Court finds that the parties shall be given an opportunity of being heard and it is the settled principle of rule of natural justice. A litigant should get a fair trial in accordance with the accepted principles of natural justice.

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Considering all those this Court accepts the show cause reply and allow the prayer for acceptance of w/s for the ends of justice.

Hence,

it is

O R D E R E D

that the petition along with show cause filed by the defendant no. 3, 4 & 5 praying for acceptance of w/s are hereby considered and allowed subject to payment of cost of **Rs.500/-** to be paid to the plaintiff.

Plaintiff is directed to take fresh steps upon rest defendants in the meantime.

To 23.02.2024 for payment of cost by defendants, hearing of petition u/o 7 rule 11 C.P.C. dt. 30.11.2022, w/o if any in the meantime and SR/AD on rest defendants. Ad interim order extended till next date.

Dict. & Corrected

Sd/-(A. Sharma)
Civil Judge (Jr. Divn.), 3rd Court
Baruipur, South 24-Parganas

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Baruipur, South 24-Parganas
JO Code- WB01411