

O.S. – 17/19
CIS Registration No. 17/19
J.O. Code – WB00653

Order No.74, Dated 29.08.23

Parties file hazira.

Today is fixed for evidence and payment of cost. Today is also fixed for hearing of the petitions filed by defendant no.10 and 11 on 28.08.23 praying for setting aside the order of exparte hearing as well as the petitions filed by defendant no.8 praying for appointment of an administrator pendente lite and taking off the case from P. board. Cost not paid.

All the aforesaid petitions filed on 28.08.23 are taken up for hearing. Heard both sides. Considered. By filing three petitions which includes show cause and time for filing W/S, the aforesaid defendant no.10 and 11 prayed for vacating the order of exparte hearing on the grounds inter alia that they have not received any summon / notice in connection with this case and they will suffer irreparable loss and injury if an opportunity is not given to them to contest the case. It appears to me that the aforesaid defendants have also filed show cause and filed a petition praying for time for filing W/S.

Having heard and considering the materials on record, it appears to me that the aforesaid defendants are ready and willing to contest the case by filing W/S and if that be so, this Court is of the view that an opportunity should be given to them by accepting their show cause and condoning the delay and laches on their part.

The petitions so filed by the aforesaid defendants accordingly stands allowed and the cause shown by them stands accepted. The aforesaid defendants are directed to file their W/S positively by 31.08.23. Plaintiff / petitioner is directed to supply copy of plaint and other documents, if any, to the aforesaid defendants in the meantime.

So far the petitions filed by defendant no.8 is concerned, it appears to me that by filing a petition the aforesaid defendant prayed for adjournment on the ground of pendency of CO No. 2949 / 2023 before the Hon'ble Court. Be it mentioned here that the instant case is getting heard on the basis of a direction made by Hon'ble Court in CO No. 2359 /2022. If that be so, there is no scope to adjourn the matter in absence of any specific order of stay to that effect. The time petition so filed accordingly stands dismissed and disposed of.

By filing another petition the defendant no.8 prayed to take off the case from P. board on the grounds inter alia that an enquiry of the instant case record is required to be made by this Court. Be it mentioned here that this Court finds no reason to enquire into the case record as prayed for and the petition being vague and baseless stands rejected with cost of Rs.1,000/-.

For want of time, the matter is adjourned. The matter is already fixed on 30.08.23. Necessary order will be passed tomorrow with regard to the petition praying for appointment of administrator pendente lite as well as the petition for inspection of the will.

To date.

D/C by me

A.D.J., 1st Court.

Addl. District Judge,
1st Court, Barasat.