

Ej Suit 55 of 2022  
WBPS01-000074-2022

Before: Smt. Sudipa Banerjee, Ld. Judge, 3<sup>rd</sup> Bench

Order No: 17

Date: 01-12-2023

Today is fixed for consideration of acceptance of written statement filed by the defendant no 2 and hearing of the petition filed by the defendant no 2 dt. 21.04.2023. W/o if any, in the mean time.

Plaintiff files hazira.

Defendant no 2 files hazira.

On call, parties are found present.

Today the petition filed by the defendant no 2 dt. 21.04.2023 is taken up for consideration.

Heard Ld. Advocates for both sides. Perused the petition and materials on record.

Considered.

By the instant petition defendant no 2 has contended that, vide order dt. 28.02.2023 Ld. Chief Judge, Presidency Small Cause Court, Calcutta directed the plaintiff to serve copy of the plaint upon the defendant no 2. But the plaintiff did not comply the said order. Thereafter, defendant no 2 has obtained a certified copy of the plaint from the department and on the basis of the same she has filed the written statement. Therefore, for non compliance of order dt. 28.02.2023, defendant no 2 has filed the instant petition with a prayer to issue show cause upon the plaintiff as to why the suit shall not be dismissed.

At the time of hearing, Ld. Advocate for the plaintiff raised objection.

Record reveals that, vide order dt. 28.02.2023 Ld. Chief Judge, Presidency Small Cause Court, Calcutta has been pleased to pass an order directing the plaintiff to serve copy of the plaint upon the defendant no 2. But inspite of said direction, plaintiff did not

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comply the said order. However, defendant no 2 has obtained a certified copy of the plaint from the department and thereafter she has filed the written statement and two petitions under Section 7 (1) and 7 (2) of WBPT Act on 21.04.2023. Both the petitions under Section 7 (1) and 7 (2) of WBPT are yet to be disposed of.

So, considering the above facts and circumstances, this Court finds that since, the defendant no 2 is contesting the instant suit by filing written statement, the instant suit is required to be disposed of on merit. Accordingly, the petition dt. 21.04.2023 filed by defendant no-2 is found liable to be rejected.

Hence, it is

Ordered

that, the petition filed by the defendant no 2 dt. 21.04.2023 is hereby considered and rejected on contest.

Written statement filed by the defendant no 2 dt. 21.04.2023 is hereby accepted.

It may be mentioned that the suit is already proceeding ex-parte against defendant no-1 vide Order dt 06.06.2022.

Fix 04-01-2024 for hearing of the petitions under Section 7 (1) and 7 (2) of WBPT Act filed by the defendant no 2 dt. 21.04.2023.

W/o if any, in the mean time.

**Sudipa Banerjee**  
[J.O. Code: WB01148]  
Judge, 3<sup>rd</sup> Bench  
Presidency Small Cause Court,  
Calcutta