

EJ 601 OF 2016
CNR NO. WBPS01-001244-2016

ORDER NO.56 dt.22/04/2026

Today is fixed for exparte order.

At this stage defendant appears and submitted that he has already filed a petition on 12/02/2026 praying for taking of the instant suit from exparte board along with the petition u/s 5 of Limitation Act and an application for recalling the order no.45 dt.08/06/2025 of this Court.

Ld. Counsel appearing on behalf of the defendant submitted that this Court vide order no.45 dt.08/04/2025 was pleased to close the evidence of the plaintiff fixing the date for exparte argument and also further submitted as in the instant defence has already been struck out, as such the defendant though has got no opportunity to adduce evidence on his behalf but the defendant can participate in argument and accordingly prays for shifting the suit from argument board and prays for an opportunity for taking part in argument.

Ld. Counsel appearing on behalf of the plaintiff raised strong objection.

Heard. Considered.

Perused the material on record as well the petitions filed by the defendant.

It appears that this Court vide order no.45 dt.08/04/2025 was pleased to close the evidence of the plaintiff, fixing the date for exparte argument on the ground that none was present at the time of evidence of the plaintiff on behalf of the defendant.

It is also evident that the defendant has filed W.S though the defence of the defendant has been struck off vide order no.34 dt.07/09/2022 but that cannot deprive the defendant from taking part in argument.

Accordingly at this stage I am inclined that for the purpose of proper adjudication of the instant suit and opportunity should be given to the defendant to participate in the argument so that the matter in dispute be disposed off in contested form rather than exparte.

Accordingly at this stage I am inclined to allow the petitions filed by the defendant which are hereby considered and allowed on contest but subject to payment of cost of Rs.3000/- payable to D.L.S.A.

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Defendant is hereby permitted to participate in argument as prayed for.

Fixing 24/04/2026 for argument.

D/C by me

Judge, Bench-4,
Presidency Small Cause Court

Judge, Bench-4,
J.O. Code no. WB01232