

OD-6-11

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

IA NO. GA/4/2024
In CS/28/2019

AYUSSH RATHHI
Vs
ASHOK KUMAR RATHI AND ORS.

IA NO. GA/5/2024
In CS/28/2019

AYUSSH RATHHI
Vs
ASHOK KUMAR RATHI AND ORS.

IA NO. GA/6/2024
In CS/28/2019

AYUSSH RATHHI
Vs
ASHOK KUMAR RATHI AND ORS.

IA NO. GA/7/2024
In CS/28/2019

AYUSSH RATHHI
Vs
ASHOK KUMAR RATHI AND ORS.

IA NO. GA/8/2024
In CS/28/2019

AYUSSH RATHHI
Vs
ASHOK KUMAR RATHI AND ORS.

IA NO. GA/9/2024
In CS/28/2019

AYUSSH RATHHI
Vs
ASHOK KUMAR RATHI AND ORS.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 28th February, 2024.

Appearance:
Ms. Manju Agarwal, Adv.
Mr. Rishi Agarwal, Adv.
Ms. Anju Manot, Adv.
... for the plaintiff.

Mr. Reetobrata Mitra, Adv.
Mr. Ayan Dutta, Adv.
Mr. Rudrajit Dey, Adv.
Ms. Aruna Ghosh, Adv.
... for the defendant.

The Court : Ms. Manju Agarwal, learned Advocate appears for the plaintiff. Mr. Reetobrata Mitra and Mr. Ayan Dutta learned Advocates appear for the defendant.

The defendant nos. 8,9,10, 13, 14 and 18 have filed their respective applications being GA/8/2024, GA/7/2024, GA/6/2024, GA/9/2024, GA/4/2024 and GA/5/2024 praying for condoning the delay of 962 days for filing the written statement and for extension of time to file written statement. Counsel for the defendants submit that thought the writ of summons were served upon the defendants and the defendant nos. 1 to 5 have filed their written statement but unfortunately learned Advocate appearing for the defendants could not file the written statement on behalf of defendant nos. 8,9,10, 13, 14 and 18. Counsel for the defendant submits that in the meantime the whole world has suffered lockdown due to Covid-19 pandemic, after the Covid-19 pandemic defendants have changed Advocates and the present Advocates have been engaged. After engaging the present Advocate, learned Advocates appearing for the defendants have inspected the documents and found that written statement has not filed and accordingly present application is filed praying for condoning the delay and extension of time to file written statement. Learned Counsel for the plaintiff raised objection and submitted that the defendants have not explained

delay as to why the defendants could not file the written statement within the prescribed time as available under the law. Counsel for the plaintiff further submits that the defendants have filed the present application after more than 960 days for extension of time to file written statement. Counsel for the plaintiff submits that the defendants have received the writ of summons within time but have failed to file the written statement though they have entered appearance in the suit. Learned Counsel for the plaintiff submits that the application filed by the defendant is misconceived as have not explained the delay and have cast allegation upon the learned Advocate who have appeared earlier but have not disclosed the name of the learned Advocate who had engaged by the defendants on earlier occasions.

Heard the learned Counsel for the respective parties, perused materials on record admittedly the suit is filed in the year 2019 and the writ of summons were served upon the defendants. Defendant nos. 1 to 5 have filed written statement but the other defendants have not filed their written statement. It is find from the record though the defendants have not filed the written statement but still as per the report of the office the suit has not been taken into undefended list against the defendants who have not filed the written statement. This Court also find that the suit filed by the plaintiff is for partition and as such for the partition suit the presence of the parties is very much require to ascertain their right, title and interest towards the property. This Court is of the view that one more opportunity should be given to the defendants to file written statement. Counsel for the defendants submit that the written statement is ready and if this

Court will allow the application, they will file the written statement within 2 or 3 days from date.

Considering the submissions made by the respective parties and for the interest of justice time to file written statement by the defendant nos. 8,9,10, 13, 14 and 18 is allowed subject to payment of costs of Rs.5,000/- each defendants i.e. defendant nos. 8,9,10,13, 14 and 18 to the plaintiff within a week from date.

Let the written statement be filed within a week from date after serving the copy to the learned Advocate for the plaintiff.

Counsel for the defendant is also directed to inform who is the learned Advocate-on-record for the defendant nos. 8,9,10, 13, 14 and 18 to the plaintiff within a week from date.

Accordingly, GA/8/2024, GA/7/2024, GA/6/2024, GA/9/2024, GA/4/2024 and GA/5/2024 are disposed of .

(KRISHNA RAO, J.)