

OC-2

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
(COMMERCIAL DIVISION)

IA NO.GA 4 OF 2022
IN
CS 14 OF 2022

MEERA DHANUKA
Versus
BANK OF INDIA AND ANR.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date : 4th November, 2022.

Appearance:

Mr. Jishnu Chaudhury, Adv.

Mr. Varun Kothari, Adv.

Mr. A.Agarwalla, Adv.

Ms. D.Mukherji, Adv.

For plaintiff

Mr.Victor Dutta, Adv.

For defendant no.1 (Bank of India)

Mr. Indrajeet Bhattacharjee, Adv.

Mr. Kowshik Tikadar, Adv

The Court:- In this suit instituted in the Commercial Division, the writ of summons was served on 23rd February, 2022. The defendant no.2 entered appearance through an advocate on 11th April, 2022. Under the provisions of the Commercial Courts Act, 2015 read with the amended provisions of Order VIII of the Code of Civil Procedure, 1908 made applicable to suits arising out of a commercial dispute the outer limit of filing the written statement is 120 days. It is no more res integra that written statement beyond 120th day cannot be filed or accepted.

This application for extension of time to file written statement made by the defendant no.2 has been filed on 5th September, 2022 much after the expiry of 120 days from the date of receipt of the writ of summons.

The protection with regard to the operation of limitation during the pandemic was provided till 28th February, 2022. Even if a lenient view is taken that the time for filing the written statement starts running from 1st March, 2022 though the writ of summons have been received on 23rd February, 2022 in view of the protection given by the Hon'ble Supreme Court then also 120 days have expired from 1st March, 2022 much before the filing of the application.

Considering the special limitation provided under the Act, the time to file written statement in the instant case cannot be extended as 120 days have expired prior to making of this application if the date of receipt of the writ of summons i.e. 23rd February, 2022 is taken into consideration as also from 1st March, 2022 if the benefit of the orders passed by the Hon'ble Supreme Court are extended to the defendant no.2 as discussed hereinabove.

The application thus fails and is dismissed without, however, any order as to costs.

Since I have not called for any affidavit, the allegations contained in the application are deemed to have not been admitted by the plaintiff.

(ARINDAM MUKHERJEE, J.)