

**In the High Court at Calcutta
Commercial Division
Original Side**

IA No. GA-COM /4/2025
In
CS-COM/41/2025

THE NEW INDIA ASSURANCE COMPANY LIMITED.
VS
HDFC BANK LIMITED.

BEFORE:

The Hon'ble JUSTICE ANIRUDDHA ROY

Date : 18th December, 2025.

APPEARANCE:

Mr. Shreyaan Bhattacharya, Adv.

Mr. Rajdeep Bhattacharya, Adv.

For the plaintiff.

Mr. Sayantan Bose, Adv.

Mr. Soorjya Ganguly, Adv.

Mr. Prithwish Roy Chowdhury, Adv.

For defendant

The Court:- In view of the urgency in the matter, the matter is placed in the supplementary list and has been taken up.

The instant master summons has been taken out with the supportive affidavit praying for extension of time to file written statement in the commercial division.

The inescapable facts are stated. The plaintiff is the occupier in respect of an immovable property and by filing the

suit the plaintiff, inter-alia, claims decree for specific performance of the contract for execution of a lease for a period of **10 years** along with other consequential reliefs. The writ of summons was served on **August 20, 2025**. The mandated **30 days** from the date of service of writ of summons under the amended provision of **Rule 1 to Order VIII** of Code of Civil Procedure had expired on **September 19, 2025**. The mandated **120th** day expires today i.e. **December 18, 2025**. The instant application has been taken out on **December 16, 2025** annexing a copy of the written statement which shows that the same was affirmed on **December 15, 2025**.

The amended provision under **Rule 1 to Order VIII** of CPC provides that defendant has to file its written statement within **30 days** from the date of service of writ of summons and thereafter the defendant, if applies for extension of time since the written statement has not been filed within the said mandated **30 days**, the extension may be granted by the Court upon being satisfied with the reasons shown for such delay and in that case the Court has to record its reasons in writing. The extension can happen upon awarding cost by the Court if the Court is satisfied with the reasons shown.

Reading of the provision makes it clear that till expiry of **120th** day the defendant has a right to take out an application praying for extension of time to file written statement, which has not been filed within the mandated **30 days**.

On perusal of the averments made in the instant application, it appears to this Court that before preparing the written statement the defendant has filed an application under **Section 8** of the Arbitration and Conciliation Act, 1996, the same is pending. The law is mandatory that if a defendant is to file an application under **Section 8** of the Arbitration and Conciliation Act, 1996, the same has to be done before filing the statement on substance of the suit. The explanation shown by the defendant shows that prior to **Section 8** application being filed, the written statement could not be prepared and filed by the defendant following the provisions of law.

Thereafter, the reasons shown by the defendant for condoning the delay and praying for extension of time to file written statement are found to be bonafide, just and cogent to this Court.

In an adversarial litigation filing of written statement by the defendant is a matter of right unless restriction is imposed thereupon by law.

Considering the provisions laid down under the amended **Rule 1 to Order VIII** of CPC and considering the causes shown in the application, this Court finds that the reasons shown are cogent and sufficient. Today is the **120th** day.

In view of the above, the defendant shall file its written statement positively by today and the department shall accept the same by today.

However, the defendant shall pay cost of **Rs.50,000/-** in favour of **State Legal Services Authority, West Bengal** positively **within a week from date**. Learned Advocate-on-Record for the defendant shall produce a copy of the money receipt to the learned Advocate-on-Record for the plaintiff and also before the Registrar, Original Side.

In the event of default of paying the cost within the time frame as directed herein, the written statement shall be taken off the file by the department and no further cognizance shall be taken thereupon. In that event, the suit shall appear in the undefended list.

Since today is the **120th** day, the written statement shall be taken on record by the department on the basis of the endorsement on the fiat of the original written statement to be made by the Assistant Registrar of this Court.

Written statement shall be subject to scrutiny by the department.

On the above terms this application **IA No. GA-COM/4/2025** stands allowed without any order as to costs.

(ANIRUDDHA ROY, J.)

dg/