

OD – 1

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
COMMERCIAL DIVISION

IA NO: GA/1/2021

In
CS/265/2019

DESMET REAGENT PVT. LTD.
VS.
HDFC ERGO GENERAL INSURANCE CO. LTD. & ORS.

BEFORE :
THE HON'BLE JUSTICE
RABINDRANATH SAMANTA
Date: December 30, 2021.
[*Via Video Conference*]
[Vacation Bench]

Appearance :
Mr. Anirban Ray, Advocate
Mr. Varun Kothari, Advocate
Mr. Soumalya Ganguli, Advocate
Ms. Anjana Banerjee, Advocate
...for the Applicant/defendant No.1

The Court :- This is an application taken out by the petitioner/defendant No. 1 seeking order for acceptance of the written statement affirmed by it.

I find that despite service of notice upon the learned Advocate-on-record of the respondent/plaintiff, nobody has turned up to represent it before this Court.

Mr. Ray, learned Advocate appearing for the petitioner/defendant No. 1 submits that in view of the direction passed by the Hon'ble Apex Court in M.A. 665 of 2021, the period of limitation to file written statement by the petitioner/defendant No. 1 has stood extended till 2nd January, 2022.

What I find, summons was issued in January 2020 and the summons was served upon the petitioner/defendant No. 1 on 21st January, 2020. As per the relevant provision of the Civil Procedure Code, the petitioner/defendant No. 1 was to file written statement within 120 days from 21st January, 2020. By order dated 23rd September, 2021 passed in Miscellaneous Application No. 665 of 2021 in SMW (C) No. 3 of 2020 the Hon'ble Apex Court has directed as under:-

“II. - In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days that longer period shall apply.”

In view of the directive of the Hon'ble Apex Court, the period of limitation may be extended till 2nd January 2022 in favour of the petitioner/defendant No. 1 to file the written statement.

Therefore, in view of the above and for the interest of justice the application as taken out by the petitioner/defendant No. 1 is allowed

subject to payment of cost of 300 GMs to be paid by the defendant/petitioner No. 1 to the plaintiff within two weeks from the date of reopening after Christmas Vacation.

The petitioner/defendant No. 1 is permitted to file the written statement today and the department shall accept the written statement.

The application stands disposed of.

(RABINDRANATH SAMANTA, J.)

GH.