

ORDER SHEET

IA No.GA/6/2025

IN

CS No. 181 of 2024

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION

SRI SRI SATYANARAYAN JIEW THAKUR & LAKSHMINARAYAN JIEW
VS.
BHAGWATI PRASAD PODDAR & ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 24th June, 2025

Appearance:

Mr. Sourav Mondal, Adv.

Mz. Parvez Anam, Adv.

Mr. Swapnodwip Roy, Adv.

Mr. Altamash Alim, Adv.

For the petitioner.

Ms. Debanwita Pramanik, Adv.

Ms. Antora Panjan, Adv.

For the respondents/plaintiffs.

The Court: This is an application by the defendant no.2 in this suit for extension of time to file the written statement. The writ of summons was served on 20th February, 2025 with a stipulation that the written statement has to be filed within 21 days from the date of receipt of the writ of summons. The defendant no.2 has entered appearance on 7th March, 2025 but could not file the written statement within the stipulated period. Although the grounds cited for the delay are not convincing yet for the ends of justice the time to file the written statement till 27th June, 2025.

The Department, if approached within the extended time period with a

copy of the written statement shall accept the same provided such written statement is in proper form and order.

The application, IA No. GA 6 of 2025 in CS No. 181 of 2024, is disposed of.

This extension of time to file the written statement is without prejudice to the contention of the defendant no.2 that the suit is filed against the defendant no.1 who has died prior to filing of the suit.

It is also submitted by the defendant no.2 that the ratio of the judgment reported in **2017 (9) SCC 700 (Pankajbhai Rameshbhai Zalavadiya vs. Jethabhai Kalabhai Zalavadiya (Deceased) Through Legal Representatives & Ors.)** does not apply to the facts of the instant case. The fact, however, remains that suit against the dead person cannot be maintained in view of no cause of action as against the deceased portion is in existence on the date of institution of the suit but not for abetment. Moreover, where there are more than one defendant, the suit cannot be dismissed. The defendant is permitted to take this point in the written statement.

(ARINDAM MUKHERJEE, J.)