

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

CS-COM/785/2024
IA No. GA-COM/2/2025, GA-COM/3/2025

PRADIP KUMAR GANERIWALA

-VS-

ROHAN GANERIWALA

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : August 25, 2025.

Appearance:

Mr. Rajeev Kumar Jain, Adv.
Ms. Yamini Mahawar, Adv.
...for the plaintiff

Mr. Rachit Lakhmani, Adv.
Mr. Shameek Ray, Adv.
Mr. Aritra Pal, Adv.
...for the defendant

1. The defendant has filed the application being GA-COM/2/2025 in CS-COM/785/2024 praying for condoning the delay in filing written statement and for acceptance of the written statement.
2. Counsel for the defendant submits that the writ of summons was served upon the defendant on 22nd November, 2024 and on receipt of writ of summons, the defendant has contacted the learned Advocate and handed over all the documents to the erstwhile advocate for finalization of the written statement. He submits that the erstwhile advocate could not prepare the written statement and subsequently, due to his personal difficulties has returned the brief to the defendant and immediately, thereafter, the defendant has contacted present advocate on record and handed over all the

documents for filing written statement. By that time, the period of 30 days was over due to which the defendant could not file the written statement within a period of 30 days. He submits that on receipt of all documents, the present advocate of the defendant has prepared the written statement and with the leave of this Court, on 19th March, 2025 has filed the same on 20th March, 2025 i.e. within the outer period of 120 days. He submits that though the defendant has not filed written statement within 30 days but has filed written statement within the outer period of 120 days and as such, he prays for *acceptance* of the written statement.

3. *Per contra*, learned Advocate appearing for the plaintiff raised objection and submits that the statement made by the defendant in the application is not correct. He has handed over the service report issued by the Deputy Sheriff of Calcutta dated 1st May, 2025 wherein it reveals that writ of summons was served upon 21st November, 2024 not 22nd November, 2024.
4. Learned Counsel for the plaintiff has also drawn the attention of this Court to the prayer portion of the present application and submits that 120 days is expired on 19th March, 2025 but has wrongly mentioned that 120 days expired on 20th March, 2025. He further submits that defendant has not shown any cause as to why the defendant could not file the written statement within the prescribed period of 30 days and prays the rejection of the instant application.
5. Heard the learned Counsel for the respective parties. Perused the materials on record.

6. Though the defendant has stated that the writ of summons was served upon the defendant on 22nd November, 2024 but as per the service report issued by Deputy Sheriff of Calcutta, the writ of summons was served upon the defendant on 21st November, 2024. Admittedly, the plaintiff has not filed written statement within the period of 30 days i.e. 20th December, 2024 but the defendant with the leave of this Court has filed the written statement on 20th March, 2025. If 21st November, 2024 is taken into consideration as date of service of writ of summons upon the defendant, 120 days would be completed on 21st March, 2025 and this Court finds that the defendant with the leave of this Court has filed written statement on the same date i.e. 20th March, 2025 i.e. 119th day.
7. Considering the above, this Court also finds that the defendant has shown sufficient cause that initially the defendant has engaged another lawyer but due to personal difficulties of the erstwhile advocate, he has returned the brief and subsequently, the defendant has engaged present lawyer and he has prepared written statement and filed on 20th March, 2025.
8. This Court finds that though the defendant has not filed the written statement within the period of 30 days but has filed written statement on 119th day, thus, one opportunity should be given to the defendant by accepting the written statement subject to payment of cost of Rs.5000/- to the High Court Legal Services Authority.
9. The defendant is directed to pay the cost of Rs.5000/- in the High Court Legal Services Authority within a week from date.

10. The defendant is directed to produce the proof of the payment of cost to the learned Master within a week from date.
11. The department is directed to accept the written statement filed by the defendant on 20th March, 2025 subject to scrutiny by the department.
12. The defendant is directed to serve the copy of the written statement to the plaintiff within a week from date.
13. GA-COM/2/2025 is disposed of.
14. As the plaintiff has not filed affidavit in connection with GA-COM/2/2025, the allegation made in the said application be deemed to have been denied.
15. The plaintiff has filed the application being GA-COM/3/2025 under Order XIII A of the Code of Civil Procedure as amended under the Commercial Courts Act.
16. Let the matter appear on 9th September, 2025.

(KRISHNA RAO, J.)