

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

BEFORE:

The Hon'ble Mr. Justice Ravi Krishan Kapur

IA NO: GA/4/2019
(Old No: GA/687/2019)

C.S. NO.293 OF 2002
[Via Video Conference]

THE CALCUTTA STOCK EXCHANGE LIMITED

-vs-

SUDHIR SATNALIWALA

For the plaintiff : Mr. Rohit Banerjee, Adv.
Mr. Paritosh Sinha, Adv.
Ms. Shrayashee Das, Adv.
Mr. Jishnujit Roy, Adv.

For the defendant : Mr. Aniruddha Mitra, Adv.
Mr. Dipak Dey, Adv.
Ms. Swapna Mitra, Adv.

Heard on : 27.09.2021, 28.09.2021

Judgment on : 04.10.2021

Ravi Krishan Kapur, J.:

1. This application is filed by the defendant for further and better particulars with an alternative prayer for extension of time to file the written statement.
2. In or about June 2002, the plaintiff filed this suit praying inter-alia for a money decree of approximately Rs.65 lakhs along with interest against the defendant. The cause of action as pleaded in the plaint arises out of defaults committed by the defendant in complying with

his obligation as a member of the plaintiff Stock Exchange and for non-fulfilment of his obligation towards settlement of his accounts being maintained with the plaintiff.

3. The suit was filed in June, 2002. On 3 July, 2002 the plaint was presented before this Hon'ble Court. A copy of the plaint was served on defendant on 7 October, 2002. On 8 April, 2003 an application was filed by the defendant whereby the time to file the Written statement was extended by a period of six weeks. The original time period for filing the written statement expired on 20 May, 2003. On 9 September, 2011 there was a change in the Advocate-on-record on behalf of the plaintiff. Thereafter, on 30 October, 2017 the present Advocate-on-Record on behalf of the plaintiff was appointed. In May, 2018 the plaintiff filed an application for amendment of the name of the plaintiff. On 18 May, 2018 the order of amendment was passed effecting the change of name of the plaintiff. On 23 June, 2018 the amended plaint was served on the defendant. On 18 July, 2018 the defendant prayed for leave to file Vakalatnama which was granted on 29 August, 2018 and the defendant was also granted 4 weeks time to file his written statement. On 29.09.2018 the stipulated time period for filing of the written statement expired. On 4 December, 2018 the suit was dismissed for default due to non-appearance of plaintiff. On 20 December, 2018 the order of dismissal of the suit was recalled and further 3 weeks time period was granted to the defendant to file the written statement. On 23 January, 2019 the time period to file the

written statement expired. Thereafter, on 24 January, 2019 the defendant filed the instant application seeking for further and better particulars and alternatively praying for extension of time to file his written statement. In the said application the parties filed their respective pleadings. The matter thereafter had appeared on 23 September, 2021 at the instance of the Department. Significantly, neither the plaintiff nor the defendant have made any effort to have this application listed for hearing.

4. At the hearing of this application, it was submitted on behalf of the defendant that the written statement was ready and the same be taken on record. On behalf of the plaintiff it was submitted that, there has been undue and inordinate delay on the part of the defendant.
5. Notwithstanding, a lapse of nearly two decades the defendant has not even completed his pleadings. There has been a change of three Advocates on behalf of the plaintiff. As far as the defendant is concerned, the defendant has successfully managed to abuse the process of the Court and avoid any chance of having this suit heard for nearly two decades.
6. This application is a third attempt to obtain extension for time to file the written statement. The application as framed is one for better and further particulars but the defendant does not even press this prayer at the hearing of the application. It is unfortunate that the parties have been unable to activate this suit for hearing for nearly more than two decades. This is another example where a party defendant

deliberately, intentionally, mischievously thwarts any prospect of the hearing of the suit. And of course, if the defendant has been scheming then the plaintiff has only itself to blame for the appalling state of affairs.

7. In view of the fact that the defendant has prepared the written statement and prays for liberty to file the same and keeping in mind the adversarial nature of litigation which our jurisprudence encourages, the time to file the written statement is extended peremptorily by a period of 1 week from the reopening of the ensuing Puja Vacation upon payment of costs assessed at Rs.5 lakhs payable to the Chief Minister's Relief Fund, West Bengal within a period of 2 weeks from the date of this judgment. The Registrar, Original Side, High Court Calcutta, is directed to ensure compliance with this direction for payment of costs. In default, the plaintiff will be entitled to proceed ex-parte. After payment of costs, documents should be discovered within 4 weeks from date, Inspection forthwith thereupon. Upon completion of the formalities the plaintiff will be at liberty to pray for early listing of the suit.
8. In view of the aforesaid, IA No.GA 4 of 2019 (Old No.GA/687/2019) is disposed of.
9. Urgent certified photostate copy of this judgment, if applied for, be given to the parties upon compliance with all requisite formalities.

(Ravi Krishan Kapur, J.)