

(2026) 08 CAL CK 1005

In the Calcutta High Court, Original Side

Case No : IA NO. GA-COM/1/2026 In CS-COM/2/2026

Andrew Yule and Co Ltd

APPELLANT

Vs

Akriti Sales Private Limited and Ors

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Commercial Courts Act, 2015
Code of Civil Procedure, 1908 — Order VIII Rule 1

Citation : (2026) 08 CAL CK 1005

Hon'ble Judges : Aniruddha Roy, J.

Bench : Single Bench

Advocate : Mr. Rohit Banerjee, Adv.; Mr. Sudarshan Kumar Agarwal, Adv.; Ms. Anushka Chatterjee, Adv. — For the plaintiff. Mr. Satadeep Bhattacharyya, Adv.; Ms. Joyoshree Chakraborty, Adv.; Ms. Jyoti Barai, Adv. — For the defendant no. 1. Ms. Sahana Pal, Adv. — For the defendant nos. 2 and 3.

Final Decision : Allowed

Judgement

ANIRUDDHA ROY, J :

1. Mr. Rohit Banerjee, learned advocate appears for the plaintiff.
2. Ms. Jyoti Barai, learned advocate appears for the defendant no. 1/ applicant.
3. Ms. Sahana Pal, learned advocate appears for the defendant nos. 2 and 3.
4. Pursuant to the direction made by this Court dated July 20, 2026, the office of the Deputy Sheriff has filed its report dated July 23, 2026, the same is taken on record. The record shows that the writ of summons was served upon the defendant no. 2 by post.
5. This is an application filed by the defendant no. 1 praying for extension of time to file written statement in a commercial suit beyond the mandated 30 days but within the mandated 120 days from service of writ of summons, as mandated under Rule 1 to Order VIII of CPC, as amended.

6. The report of the Office of the Deputy Sheriff, on record, shows that the defendant no. 1 was served with the writ of summons through bailiff on June 11, 2026. The master summons has been taken out on July 10, 2026 and the application has been filed on July 13, 2026 praying for extension of time to file written statement.

7. The defendant no. 1 has stated the grounds for delay in various sub paragraphs of the supporting affidavit in support of the Master's summons.

8. Right to file written statement by the defendant, unless forbidden by law, is vested right. Under the rigors of the Commercial Courts Act, 2015 read with amended Rule 1 to Order VIII of CPC, a defendant shall forfeit its right to file written statement, after 120 days from the date of service of writ of summons. In the event, the defendant does not file its written statement within the mandated first 30 days, upon showing sufficient cause by the defendant, if the Court is satisfied, the Court at its discretion, upon payment of costs, can allow the defendant to file its written statement but of course not beyond the mandated 120 days.

9. In the instant case, the application annexing the written statement shows that the application has been filed much before 120 days from the date of service of writ of summons. The Court finds the causes shown, praying for extension, are just and cogent, for which time can be extended.

10. In view of the above, subject to payment of costs of Rs.10,000/-, to be paid in favour of the Calcutta High Court Legal Services Committee by the defendant, positively within a week from date and upon production of money receipt showing payment of costs before the department, but not later than the next seven days from the date of payment of costs, the concerned department shall accept and allow the defendant to file written statement. The written statement shall be taken on record and the suit register shall reflect in accordance with law.

11. A copy of the money receipt shall also be provided to the learned Advocate on Record for the plaintiff.

12. On the above terms, this application IA No. GA-COM/1/2026 stands allowed.