

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 27219/2019

[Arising out of impugned final judgment and order dated 04-07-2019 in CNOML No. 1562/2019 in C.S. No. 241/2019 passed by the High Court of Judicature at Bombay]

M/S OM SHANTI REALTORS & ORS.

PETITIONER(S)

VERSUS

M/S MOHAN PROOFING CO. & ORS.

RESPONDENT(S)

(IA No. 166476/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

WITH

SLP(C) No. 4504/2020 (IX)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 19819/2020

IA No. 19819/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 04-12-2024 These matters were called on for hearing today.

CORAM: HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. Gaurav Agrawal, Sr. Adv.

Mr. C. George Thomas, AOR

Mr. Ansh Mittal, Adv.

For Respondent(s) Mr. Prakash Shah, Adv.

Mr. Wattan Sharma, Adv.

Mr. Jass Sanghavi, Adv.

Mr. Nikilesh Ramachandran, AOR

Mr. Kartik Yadav, Adv.

Mr. Garvesh Kabra, AOR

Mr. Abhishek Jaju, Adv.

Mr. Amit Singh, Adv.

Mr. Avanish Deshpande, Adv.

Mr. Sunny Jadhav, Adv.

Mr. Sunil Kumar Verma, AOR

Mr. Aniruddha Joshi, Sr. Adv.

Mr. Shashibhushan P. Adgaonkar, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Special Leave to Appeal (C) No. 27219/2019:-

Heard Mr. Gaurav Agrawal, learned Senior Counsel appearing for the petitioners (defendants), and Mr. Jass Sanghavi, learned Counsel appearing for the respondents (plaintiffs), in the Commercial Suit No. 241 of 2019, filed before the High Court of Judicature at Bombay.

2. The written statement for the Commercial Suit under Order 8 Rule 1 of the C.P.C. was required to be filed within 30 days from the date of service of summons on the defendants. The summons in the suit were served on the defendants on 28.02.2019. However, within the permitted 30-days time limit, the written statement was not filed. Eventually, the written statement in the said Commercial Suit was filed on 26.06.2019.

3. To seek condonation of the delay in filing the written statement, the following explanation was provided in the application:

"5. I say that for filing the written statement on behalf of these defendants, these defendants had to go through various documents which are germane to the issues involved in the said suit. I say that Defendant Nos. 2 and 3 stepped into the shoes of Defendant No. 1 in the year 2016 for the purpose of completing the construction and thereafter obtaining OC. These Defendants respectfully submit that there is a delay of 119 days in drafting and filing the written statement, which was caused by taking advice from the directors of the Defendants and their advocate, drafting, finalizing, settling, and approving the same from the directors of the Defendants, which is a body corporate. However, said delay is purely unintentional."

4. The learned Judge, under the impugned judgment dated 04.07.2019, considered the relevant provisions and the explanation given in the aforementioned paragraph. The Court additionally concluded that the outer limit of 90 days for filing a written statement can be considered only when, sufficient reasons are indicated by the defendants.

5. Noting the inadequacy of explanation and taking into account that this was a commercial matter where the written statement is mandated to be filed within 30 days, the belated written statement was not entertained by the Court. It was also observed that the defendants could still cross-examine the plaintiffs' witnesses or

adduce other witnesses, to support their case.

6. Having considered the above basis for not condoning the delay in filing the written statement in the Commercial Suit, we see no reason to interfere. The Special Leave Petition is accordingly dismissed.

7. Pending application(s), if any, shall stand closed.

Special Leave to Appeal (C) No. 4504/2020:-

Heard Mr. Gaurav Agrawal, learned Senior Counsel appearing for the petitioners (defendants), and Mr. Jass Sanghavi, learned Counsel appearing for the respondents (plaintiffs), in the Commercial Suit No. 75 of 2019, filed before the High Court of Judicature at Bombay.

2. The written statement for the Commercial Suit under Order 8 Rule 1 of the C.P.C. was required to be filed within 30 days from the date of service of summons on the defendants. The summons in the suit were served on the defendants on 25.01.2019. However, within the permitted 30-days time limit, the written statement was not filed. Eventually, the written statement in the said Commercial Suit was filed on 04.04.2019.

3. To seek condonation of the delay in filing the written statement, the following explanation was provided in the application:

"5. I say that for filing the written statement on behalf of these defendants, these defendants had to go through various documents which are germane to the issues involved in the said suit. I say that Defendant Nos. 2 and 3 stepped into the shoes

of Defendant No. 1 in the year 2016 for the purpose of completing the construction and thereafter obtaining OC. This applicant respectfully submit that there is delay of 45 days in drafting and filing the written statement which is caused in taking advise from the directors of the Appellant and their advocate, drafting, finalizing, settling and approving the same from directors of the Appellant which is body corporate; however said delay is purely unintentional."

4. The learned Judge, under the impugned judgment dated 30.07.2019, considered the relevant provisions and the explanation given in the aforementioned paragraph.

5. Noting the inadequacy of explanation and taking into account that this was a commercial matter where the written statement is mandated to be filed within 30 days, the belated written statement was not entertained by the Court. It was also observed that the defendants could still cross-examine the plaintiffs' witnesses or adduce other witnesses, to support their case.

6. Having considered the above basis for not condoning the delay in filing the written statement in the Commercial Suit, we see no reason to interfere. The Special Leave Petition is accordingly dismissed.

7. In view of the above order, Mr. Jass Sanghavi, learned Counsel appearing for the respondents (plaintiffs), submits that I.A. No. 192655/2023 filed by him is not being pressed and he will take

appropriate steps before the competent Court. I.A. No. 192655/2023  
is ordered accordingly.

8. Pending application(s), if any, shall stand closed.

(D. NAVEEN)  
COURT MASTER (SH)

(KAMLESH RAWAT)  
ASSISTANT REGISTRAR