

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

C.M.P.Nos.7233, 7234 & 7235 of 2016

and

O.S.A.Nos. SR 17068, 17074 & 17080 of 2016

M/s.CSG Holding Company Limited,
6th Industry Road,
ShenkouShenzen China,
rep. by its Power Agent Mr.Pulak Neogy. .. Petitioner/Appellant

vs

1.Saint-Gobain Glass France,
A French Societe Anonyme (S.A.),
"lesMiroirs"
18, Avenue d' Alasace92400 Courbevoie,
France Represented by Power Agent
T.Bhaskaran.

2.M/s.Saint-Gobain Glass (India) Limited,
Level 7, Sigapi Achi Building,
18/3, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 008. .. Respondents/
Respondents

Applications filed under Section 5 of the Limitation Act to
condone the delay of 1119 days in filing the OSA SR Nos.17068,
17074 & 17080 of 2016.

Appeals SR filed under Order XXXVI, Rule 9 of Original Side

Rules read with Clause 15 of Letters Patent against the order made in O.A.Nos.980, 981 & 982 of 2012 in C.S.No.754 of 2012, dated 07.01.2013.

For Petitioner/ .. Mr.P.V.Balasubramaniam
Appellant

* * * * *

COMMON ORDER

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The appellant seeks condonation of delay of 1119 and 1136 days respectively in filing the appeals against the interlocutory order passed by the learned Single Judge on 07.01.2013 granting interim injunction.

2. The appellant is based in China. A reading of the impugned order shows that the learned Single Judge proceeded on the basis that the appellant/defendant was served and therefore, in view of the absence of the appellant, the allegations made on merits were deemed to be unrebutted. The appellant, now pleads that they were not served and it is only in the course of service of summons in the suit through private service that the appellant has come to know the fact of the pendency of the suit. We may notice that the suit is still at the preliminary stage of service of summons and the learned

counsel for the appellant submits that he has entered appearance in the suit.

3. As to whether the appellant was served or not served is a matter, in our opinion, for the learned Single Judge to look into. If it is found that there was no service on the appellant, the sequitur would be to recall the already existing injunction order, giving an opportunity to the appellant and in either eventuality, the remedy of appeal would be available to the appellant.

4. We are, thus, not inclined to entertain the appeals or the applications for condonation of the delay before the Division Bench and in our view, an endeavour has to be made by the appellant before the learned Single Judge first. The appeals have been presented on 01.03.2016 and naturally, the time spent thereafter would be not taken into consideration for computing the period which the appellant has to explain. In fact, the fulcrum of the arguments is that the appellant was never served.

5. We, thus, dispose of the applications and appeals SR

directing the appellant to avail of the remedy before the learned
Single Judge. No costs.

(S.K.K., CJ.) (M.M.S.,J.)
26.04.2016

Index : Yes/No
Internet : Yes/No
bbr

To
The Sub Assistant Registrar,
Original Side, High Court, Madras.

The Hon'ble Chief Justice
and
M.M.Sundresh, J.

bbr

O.S.A.Nos.SR 17068, 17074 & 17080 of 2016

26.04.2016