

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 20th DAY OF SEPTEMBER 2018

THE HON'BLE MR. JUSTICE M.SUNDAR

A.No.6464 of 2018

in

C.S.No.697 of 2017

C.S.No.697 of 2017:-

1.M/s.CSCO LLC,
A Limited Liability Company,
Rep.by its Corporate Representative,
Mr.David Apperman,
525, Fashion Avenue, STE 1006,
New York,
NY 10018-4901, United States of America.

2.A Base Ix Company LLC,
A Limited Liability Company,
Rep.by its Corporate Representative,
Mr.David Apperman,
525, 7th Avenue, Suite 1508,
New York,
NY 10018,
United States of America.

... Plaintiff

-Versus-

1. M/s. Lakshmi Saraswathi Spintex Limited,
Rep. by its Managing Director,
No.9(Old No.8) Crescent Road,
Shenoy Nagar,
Chennai - 600 030.

2.Mr.S.Naveen Chandra,
Managing Director,
M/s. Lakshmi Saraswathi Spintex Limited,
No.9, (Old No.8), Crescent Road,
Shenoy Nagar,
Chennai - 600 030.

3.Mr.C.S.Adithya Naveen,
Director,
M/s. Lakshmi Saraswathi Spintex Limited,
No.9(Old No.8), Crescent Road,
Shenoy Nagar,
Chennai - 600 030.

.... Defendants

A.No.6464 of 2018:

1.M/s Sri Lakshmi Saraswathi Spntex Limited,
rep. by its Managing Director,
No.9 (Old No.8) Crescent Road,
Shenoy Nagar, Chennai - 600 030.

2.Mr.S.Naveen Chandra,
Joint Managing Director,
M/s.Sri Lakshmi Saraswathi Spintex Limited,
No.9 (Old No.8) Crescent Road,
Shenoy Nagar, Chennai - 600 030. ... Applicants/Defendants

-Vs-

1.M/s CSCO LLC,
A Limited Liability Company,
Mr.David Apperman,
525, Fashion Avenue, STE 1006,
New York, NY 10018-4901,
United States of America.

2.A Basix Company LLC,
A Limited Liability Company,
Rep. by its Corporate Representative,
Mr.David Apperman,
525, 7th Avenue, Suite 1508,
New York, NY 10018,
United States of America. :Respondents/Plaintiffs

3.Mr.C.S.Aditya Praveen,
Managing Director,
M/s.Sri Lakshmi Saraswathi Spintex Limited,
No.9 (Old No.8), Crescent Road,
Shenoy Nagar, Chennai - 600 030. :Respondents/
3rd Defendant

Application praying that this Hon'ble Court be pleased to condone the delay of 113 days in filing the written statement with the counter claim and take the said written statement with the counter claim against the plaintiff on record.

This Application coming on this day before this Court for hearing, the court made the following order:-

There are two plaintiffs and three defendants in the main suit. Defendants 1 and 2 in the main suit are applicants 1 and 2 in the instant application. Plaintiffs

1 and 2 in the main suit are respondents 1 and 2 respectively in the instant application. Defendant No.3 in the main suit is respondent 3 herein.

2. Parties in this application are referred to by their respective ranks in the main suit for the sake of convenience and clarity.

3. Mr.K.Subbu Ranga Bharathi, learned counsel on record is before this Commercial Division on behalf of plaintiffs and Mr.R.Sathish Kumar, learned counsel on record is before this Commercial Division on behalf of defendants 1 and 2.

4. This application has been taken out with a prayer for condonation of 113 days delay in filing written statement of defendants 1 and 2.

5. A counter affidavit has been filed by plaintiffs. Learned counsel for plaintiff points out that only objection is that the delay is actually 226 days and not 113 days. The basis for this submission is that the suit summons were served on defendants 1 and 2 on 11.09.2017 and therefore, the clock starts ticking from the said date.

6. I have considered the rival submissions and I have also perused the records in the suit file.

7. A perusal of the suit file reveals that it may not be necessary to examine this aspect and delve into it any further, as jurisdiction of this Commercial Division was determined vide proceedings dated 05.09.2018.

8. On determination of jurisdiction, this Commercial Division has powers under proviso to Section 15(4) of the Commercial Courts Act, 2015, to fix time frame for filling written statement. Exercising such powers, time frame for defendants 1 and 2 for filling written statement is extended by me and the written statement now filed by defendants 1 and 2 is accepted. Registry is directed to take the same on file.

9. It is to be noted that the reason given for delay by defendants 1 and 2 is that defendant No.3 has been described as 'Mr.C.S.AdithyaNaveen' in the plaint, whereas according to the plaintiffs it should read as 'Mr.C.S.Adithya Praveen'.

10. It is the case of the defendants 1 and 2 that they brought it to the notice of the plaintiffs immediately on receipt of the suit summons on 11.09.2017 and were waiting for the plaintiffs to carryout amendments. This is the only reason for delay, according to the plaintiffs.

11. However, in the light of the narrative supra, it may not be necessary to delve into the matter any further.

12. This application is allowed and ordered as prayed for.

13. List the main suit on 25.10.2018.

Sd/-M.S.J

20/09/2018

//Certified to be a true copy//

Dated this the day of 2019

JJ 18/02/2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.