

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
COMMERCIAL NOTICE OF MOTION NO.943 OF 2018
IN
COMMERCIAL SUIT NO.217 OF 2017**

Jitendra R. Rampariya

..Plaintiff

Vs.

Ramesh K Jain & Ors

..Defendants

Ms Sapna Krishnappa I/b Mr. Suresh Dubey for Plaintiff

Ms Mona Himdi I/b LJ Law for Defendant/Applicant in NMCD/943/

CORAM : K.R.SHRIRAM, J.

DATE : 7th MARCH, 2019

P.C.:

1 This notice of motion is taken out by defendants to condone the delay of 164 days in filing the written statement. Ms. Himdi appearing for applicant states that writ of summons was served on 14th September 2017. The 30 days period under Order 8 Rule 1 of CPC 1908, therefore, would have expired on 14th October 2017. Further 90 days expired on or about 14th January 2018. The notice of motion for condonation of delay has been taken out on 20th May 2018, way beyond the 120 days period.

2 Therefore, as held by the Supreme Court of India in its judgment in *SCG Contracts India Pvt Ltd. Vs. K. C. Chamankar Infrastructure Pvt Ltd*¹ time cannot be extended beyond 120 days and defendants, therefore, have forfeited their right to file the written statement.

1 2019 SCC Online SC 226

3 In the circumstances notice of motion dismissed.

4 This is not a case where oral evidence can be dispensed with. Therefore, plaintiff to give inspection of the documents relied upon by them on or before 28th March 2019. On or before 5th April 2019, defendants to given their statement of admission and denial, failing which, defendants would be deemed to have admitted the existence of all documents of plaintiff.

5 On or before 27th April 2019, plaintiff to file and serve list of witnesses, affidavit in lieu of examination in chief of its witness and compilation of documents.

6 Stand over to 2nd May 2019, for recording evidence.

(K.R. SHRIRAM, J.)