

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
COMMERCIAL NOTICE OF MOTION NO.473 OF 2019
IN
COMMERCIAL SUIT NO.834 OF 2017**

National Bank for Agriculture
And Rural Development

..Plaintiff

Vs.

Poddar Mills Ltd. & Ors

..Defendants

Mr. Pankaj Uttaradhi I/b Ms Sabeena Mahadik for Plaintiff

Ms Firdaus Moosa I/b Mr. Prakash Mahadik for Defendant No.1/Applicant
in NMCD/1197/2018

Mr. Rohaan Cama a/w Mr. G. C. Mohanty I/b Mohanty and Associates for
Defendant No.2

Mr. Prathmesh Seth I/b Joseph B Fernandes for Defendant No.3

CORAM : K.R.SHRIRAM, J.

DATE : 7th MARCH, 2019

P.C.:

1 In paragraph 2 of the affidavit in support, it is stated that affidavit in support was served on 15th January 2018. This notice of motion has been lodged on 16th October 2018, which is beyond the 30 + 90 days provided in Order 8 Rule 1 of the CPC 1908, as amended. 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. Defendant No.3 has forfeited its right to file written statement. Therefore, notice of motion dismissed.

1 2019 SCC Online SC 226

2 It is clarified that defendant no.3 may, however, still contest the suit by cross examining the witness of plaintiff or defendant nos.1 and 2 and raise all objections in law. They may also confront the witness of plaintiff or defendant nos.1 and 2 with any document. Defendant no.3 may also take inspection and give statement of admission and denial.

2 Mr. Cama appearing for defendant no.2 states that they do not wish to file any written statement and in fact support the plaintiff

3 By 27th March 2019 inspection of documents to be completed. If inspection is not given by plaintiff or defendant nos.1 and 2 , such party will not be permitted to rely on any document inspection of which has not been given. By 3rd April 2019 statement of admission and denial with reasons for denial to be exchanged. If the statement of admission and denial is not given, such party shall be deemed to have admitted the existence of all the documents of the other side.

4 Suit be listed for issues on 10th April 2019 on which date parties shall come with agreed draft issues and a separate list of issues on which they are unable to agree. On the next date, if parties do not come with draft issues, they are put to notice that parties will be put to terms.

(K.R. SHRIRAM, J.)