

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH  
AND  
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

O.S.A.No.116 of 2019  
and  
C.M.P.No.10662 of 2019

1. M/s.CSCO LLC,  
A Limited Liability Company,  
Rep. by its Corporate Representative,  
Mr.David Apperman,  
5215, 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,  
5215, Fashion Avenue, STE 1006,  
New York, NY 10018-4901,  
United States of America.
- ... Appellants

Vs.

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

.. Respondents

Prayer:-

Original Side Appeal filed under Clause 15 of the Amended Letters Patent read with Order 36 Rule 1 of the Original Side Rules of this Court read with Section 13 Commercial Division and Commercial Appellate Division of High Courts, Act, 2015 against the order dated 20.09.2018 passed by the learned Single Judge in Appln.No.6464 of 2018 in C.S.No.697 of 2017 on the file of this Court.

For appellant : Mr.K.Subbu Ranga Bharathi

For respondents : Mr.R.Sathish Kumar

JUDGMENT

(The Judgment of the Court was delivered by R.Subbiah, J)

This Original Side Appeal (O.S.A) has been filed against the order dated 20.09.2018 passed by the learned Single Judge in Appln.No.6464 of 2018 in C.S.No.697 of 2017 in allowing the said Application filed by the respondents 1 and 2 herein under Order 14 Rule 8 of the Original Side Rules of this Court read with Order 8 Rule 2 of the Code of Civil Procedure, to condone the delay of 113 days in filing the Written Statement with the counter claim and to take the said Written Statement with the counter claim against the plaintiffs on record.

2. The respondents herein are the defendants in the suit and the appellants herein are the plaintiffs.

3. This appeal is filed under the provisions of Section 13 of the Commercial Courts Act (as amended). As per proviso to sub-section (1-A) of Section 13 of the Commercial Courts Act (as amended), an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order 43 of the CPC as amended by the said Act and Section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

4. The present impugned order passed by the learned Single Judge will not fall within the scope and ambit of Order 43 of the CPC.

5. Hence, the appeal itself is not maintainable. Accordingly, the O.S.A. is dismissed. No costs. Consequently, C.M.P. is closed.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

CS

To

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

+2cc to Mr.K.Subbu Ranga Bharathi, Advocate, S.R.No.41803

O.S.A.No.116 of 2019

VD(CO)  
CS/01/07/2019



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