

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 04TH DAY OF OCTOBER 2019

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A. No.4227 of 2019

in

C.S.No.445 of 2018

M/s Camfil Air Filtration,
India Private Limited rep.
By its Authorised Representative
Mr.Sanjay Sharma,
SF 107/37, Devarayaneri Road,
Asoor Post, Tanjore Highway,
Trichy-620 015,
Tamil Nadu. : Plaintiff

Vs.

1.M/s Pronk Multi Service,
India Pvt.Limited rep.by its
Authorised Signatory,
797, Thiruvallur High Road,
Andersonpet, Nemam,
Chennai - 600 124,
Tamil Nadu.

2.M/s Pronk Multi Service,
India Pvt.Limited rep.by its
Authorised Signatory,
No.35, Electronic City-II Phase,
Industrial Area,
Konappana Agrahara Village,
Beguru Hobli, Hosur Road,
Bangalore, Karnataka - 560 100.

3.Mr.Shailender Anand,
Director,
M/s Pronk Multi Service,
India Pvt.Limited rep.by its
Authorised Signatory,
No.35, Electronic City-II Phase,
Industrial Area,
Konappana Agrahara Village,
Beguru Hobli, Hosur Road,
Bangalore, Karnataka - 560 100.

4.Mr.Marcel Pronk,
Director,
M/s Pronk Multi Service,
India Pvt.Limited rep.by its
Authorised Signatory,
No.35, Electronic City-II Phase,
Industrial Area,
Konappana Agrahara Village,
Beguru Hobli, Hosur Road,
Bangalore, Karnataka - 560 100.

: Defendants

A.NO.4227/2019:

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India Pvt.Limited rep.by its
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M/s Camfil Air Filtration,
 India Private Limited rep.
 By its Authorised Representative
 Mr.Sanjay Sharma,
 SF 107/37, Devarayaneri Road,
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 Trichy-620 015,
 Tamil Nadu.

:Respondent/Plaintiff

Application praying that this Hon'ble Court be pleased to condone the delay of 159 days in representing the Written Statement of Defendant 1 and 2 dated 20/12/2018 in S.R.No.79326/2018 in C.S.No.445/2018.

This application coming on this day before this court for hearing and the court made the following order:

This application has been filed to condone the delay of 159 days in representing the written statements of the first and second defendants dated 20.12.2018 in S.R.No.79326 of 2018 in C.S.No.445 of 2018.

2. It is the contention of the applicant in the affidavit that the written statement should have been filed on 09.11.2018, but it was filed only on 19.12.2018. Hence, there is a delay of 159 days in filing the written statement. Further, it is his contention that the written statement was misplaced in the office and the same was traced only at a later point of time. Therefore, there is a delay. Hence, sought to condone the delay of 159 days in representing the written statement.

3. The learned counsel for the respondent submitted that the first defendant was served summons on 13.08.2018 and the written statement ought to have been filed on or

before 11.12.2018. The defendants 2 to 4 were served summons 27.07.2018 and they ought to have filed the written statement on or before 24.11.2018. Whereas, written statement was filed only on 19.12.2018, much beyond the period of 120 days. Therefore, condoning the delay in filing the written statement does not arise at all.

4. Heard the learned counsel for the applicants and the learned counsel for the respondent perused the records.

5. On a perusal of the records, it is seen that the summons were served on the respondents on 13.08.2018. As per the amended provisions of the Order VIII of the Commercial Courts Act, the written statement shall be filed with 30 days from the date of service of summons, provided the Court can also extend time up to 120 days and not beyond that. The very object of the Commercial Act is to expedite the trial. The discretionary power to extend the time is not vested with the Court. The proviso of Order VIII of the Amended Courts Act makes it clear that if the defendant fails to file the written statement within 120 days, his right to file the written statement shall be forfeited. The Court shall not allow the written statement to be taken on record. Such being the position, when the Act is mandatory and the defendants have not filed the written statement within the time stipulated under the statute, now the defendants cannot seek for condonation of delay in representing the written statement, which was

filed much after 120 days. Hence, this Court finds that the application lacks merits and this application is liable to be dismissed.

6. Accordingly, this application is dismissed.

7. Post the suit before the Additional Master - I for recording evidence on 21.10.2019.

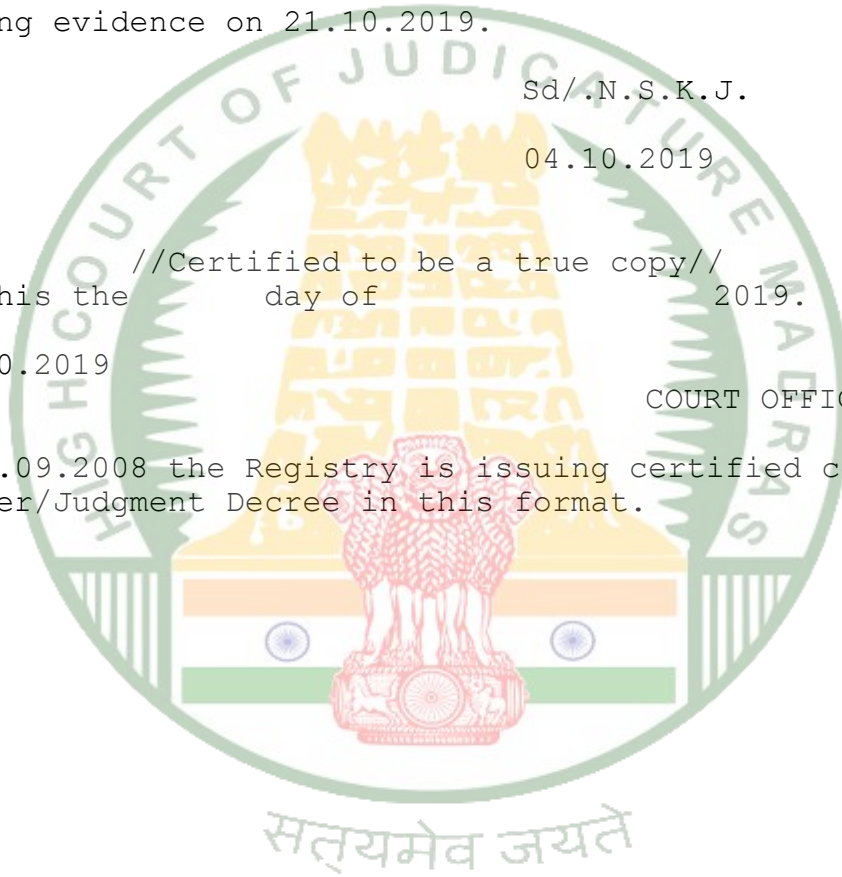
Sd/.N.S.K.J.

04.10.2019

//Certified to be a true copy//
Dated this the day of 2019.
SU/17.10.2019

COURT OFFICER

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



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