

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7284 OF 2019

Tenth Planet Intellect Private Limited .Petitioner

Vs.

Bajaj Allianz Life Insurance Company Limited .Respondent

Mr. S. Shukla a/w Mr. A. Singh & Mr. V. Patil i/b. Abhay Nevagi &
Associates, Advocate, for the Petitioner
Mr. S. S. Kanetkar, Advocate, for the Respondent

CORAM : REVATI MOHITE DERE, J.

DATE : 20.02.2020

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. Heard learned counsel for the parties.

2. By this Petition, the Petitioner has impugned the order dated 30.11.2018 passed by the learned District Judge – 1, Pune below Exh. 16 in Special Civil Suit No. 22 of 2018, by the Respondent's Application seeking permission to file Written Statement beyond 120 days was allowed subject to paying costs of Rs. 25,000/- to the Petitioner.

3. Learned counsel for the Petitioner submits that the learned Judge could not have extended the period of 120 days for filing Written Statement, considering the fact that it was a suit filed under the

Commercial Courts Act. Learned counsel relied on the Judgments of the Apex Court in the case of ***Desh Raj Vs. Balkishan (D) Through Proposed LR Ms. Rohini in Civil Appeal No. 433 of 2020 (Arising out of Special Leave Petition (Civil) No. 6217 of 2019)*** decided on 20.01.2020, ***SCG Contracts India Pvt. Ltd. Vs. K. S. Chamankar Infrastructure Pvt. Ltd. and Ors. in Civil Appeal No. 1638 of 2019 (Arising out of Special Leave Petition (C) No. 103/2019)*** decided on 12.02.2019 and the Judgments of this Court in the case of ***Mira Gehani and Ors. Vs. Axis Bank Limited and Ors in Commercial Suit No. 159 of 2017*** decided on 27.02.2019 and ***Air India Ltd. Vs. Caribjet Inc in Notice of Motion No. 4598 of 2003 in Suit No. 3228 of 2001*** decided on 04.03.2019.

4. Learned counsel for the Respondent submits that the said Judgments are post the order dated 30.11.2018 and as such, cannot be considered. He further submits that there are subsequent developments that have taken place pursuant to the said order dated 30.11.2018, inasmuch as, the Respondent has filed a counter claim to which the Petitioner has also filed his response.

5. Be that as it may, having regard to the aforesaid Judgments, it would be appropriate to remit the aforesaid matter to the trial Court to re-consider the same on its own merits, in accordance with law.

6. Accordingly, the Petition is disposed of on the following terms and conditions :-

O R D E R

(i) The impugned the order dated 30.11.2018 passed by the learned District Judge – 1, Pune below Exh. 16 in Special Civil Suit No. 22 of 2018 is quashed & set aside;

(ii) The Application (Exh. 16) is restored back to its original file;

(iii) The learned Judge to decide the said Application (Exh. 16) on its own merits after hearing the parties in accordance with law uninfluenced by the earlier order dated 30.11.2018.

7. It is made clear, that this Petition has not been heard on merits and as such, all contentions of the parties are kept open.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)