

Gauri Gaekwad

stands disposed.

4 Mr. Andharia relies upon a copy of an affidavit of one Pravin V. Kajrekar affirmed on 4th January 2018 confirming service of the writ of summons on defendants. From the affidavit, it appears that the writ of summons have been served but the dates are not clear. In any event, it has been served before 4th January 2018.

5 Therefore, the time to file written statement under Order 8 Rule 1 of the Code of Civil Procedure, as amended for commercial suit has expired long ago. Defendants have, therefore, forfeited their right to file written statement.

6 Order 8 Rule 10 of the Code of Civil Procedure provides that where any party from whom a written statement is required under Rule 1 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit, and on the pronouncement of such judgment, a decree shall be drawn up.

7 In this case, an ad-interim order was passed against defendants after notice on 17th April 2017. Despite service of the said order, defendants have not filed affidavit in reply or taken out an application for recalling the ad-interim order. Despite service of writ of summons also no written statement has been filed within the time permitted. Leave under Clause 14 has also been granted.

8 Therefore, plaintiff shall be entitled to a decree in terms of prayer clauses - (a), (b) and (d). Since there is no evidence to prove prayer clause – (c), Mr. Andharia states that plaintiff will not press for prayer clause – (c).

9 Suit accordingly stands disposed.

(K.R. SHRIRAM, J.)