

A.No.2327 of 2021
in C.S.No.194 of 2019

DR.G.JAYACHANDRAN,J.

This application is filed by the sixth defendant to condone delay of 365 days in filing the written statement in C.S.No.194 of 2019

2.From the affidavit filed along with this petition, it appears that the suit which was taken as commercial dispute by this Court granting leave to sue was challenged in Application No.3847 of 2019. This Court on 26.08.2019, while disposing Application No.3847 of 2019 and other applications, had revoked the leave granted to sue. Thereafter, the plaintiff aggrieved by revocation of leave had filed O.S.A. which came to be allowed by order dated 15.09.2020. Thus, the suit has been restored. The sixth defendant thereafter has presented the written statement on 12.03.2021 with the present application to condone the delay.

3. In normal circumstances, as per the provisions of the

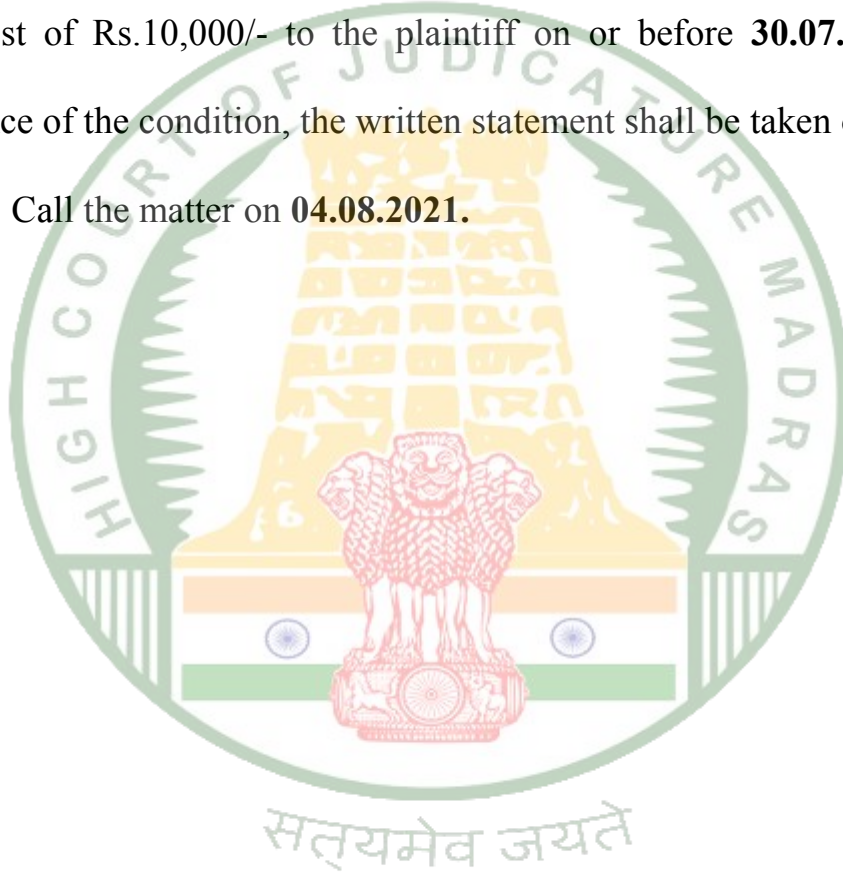
Commercial Courts Act, Order VIII Rule (1), written statement ought to be filed within 30 days from the date of receipt of the suit summon. For reasons to be recorded in writing, the Court may permit the defendant to file written statement beyond 30 days but it shall not be later than 120 days from the date of service of summons.

4. In the present case, suit summon was served on the defendant on 20.06.2019. As stated above, in normal course, the written statement ought to have been filed within 30 days i.e., 20.07.2019. However, the defendant thought fit to file application to revoke the leave to sue and also succeeded. Therefore, the limitation can be reckoned only from the date of the order passed by the Division Bench reversing the order of the learned Single Judge revoking the leave to sue. The Division Bench order is dated 15.09.2020, the date on which the suit is restored. The written statement of the appellant/sixth defendant is filed on 12.03.2021. Admittedly, there is delay in filing the written statement but sufficient cause has been shown by the defendant. Firstly, their application to revoke the leave, which was

allowed by the learned Single Judge, was later reversed by the Division Bench. Secondly, the pandemic situation which has impelled the Hon'ble Supreme Court to issue moratorium to reckon limitation period between 15.03.2020 and 14.03.2021. Hence, the delay is condoned on condition to pay a cost of Rs.10,000/- to the plaintiff on or before **30.07.2021**. On compliance of the condition, the written statement shall be taken on file.

Call the matter on **04.08.2021**.

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