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*A.No.3824 of 2022
in C.S.No.46 of 2018*

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C.S.No.46 of 2018

M.SUNDAR, J

In this order, parties are referred to by their respective ranks in the main suit for the sake of convenience and clarity.

2. Captioned application has been taken out by the first defendant in the main suit. Plaintiff has been arrayed as first respondent and defendants 2 to 4 have been arrayed as respondents 2 to 4 respectively.

3. Prayer in the captioned application is for 'Condonation of Delay' ['COD']. Delay sought to be condoned is 5 days in filing written statement.

4. Mr.Vaibhav R.Venkatesh, learned counsel for first defendant submits that it is a transferred suit i.e., a transfer under Section 15(4) of the 'Commercial Courts Act, 2015 (Act 4 of 2016)' [hereinafter 'CCA' for the sake of brevity, convenience and clarity] and the counsel for defendant did not request for drawing up timelines post transfer and assessment of jurisdiction of the Commercial Division.

5. Ms.Madhupreetha Elango, learned counsel representing the counsel on record for plaintiff vehemently opposed the application by pointing out that the



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WEB COPY reasons now articulated by learned counsel have not been adequately articulated in the support affidavit.

6. A careful perusal of the support affidavit shows that the reason articulated therein turns on 'Corona virus pandemic and consequent lock down' [collectively 'Covid-19 situation']. It is obvious that Covid-19 is something which none could portend or presage. It is well within the tolerance limit/cap qua proviso to Order VIII Rule 1 of 'The Code of Civil Procedure, 1908 (Act 5 of 1908)' ['CPC' for the sake of brevity]. Therefore, considering the nature of the suit, facts and circumstances of the case and the trajectory the matter has taken, this Court is inclined to accede to the prayer for COD.

7. Captioned application is ordered as prayed for. Registry to take the written statement of first defendant on file subject to the written statement being in order in all other aspects. There shall be no order as to costs.

**29.09.2022
(2/2)**

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