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*A.No.4226 of 2022
in C.S(Comm.Div) No.53 of 2021*

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M.SUNDAR, J

Captioned application has been filed with a 'Condonation of Delay' ['COD' for the sake of brevity] prayer. To be noted, COD is qua 50 days delay in filing the Written Statement.

2. In this order from hereon and henceforth parties shall be referred to by their respective ranks in the main suit for the sake of convenience and clarity.

3. Mr.Pradeep Jayaraman, learned counsel for lone defendant and Mr.Gokul Sundar, K.R, learned counsel on record for the sole plaintiff are before this Commercial Division. From the narrative thus far, captioned application is obviously being taken out by the lone defendant. Learned counsel for lone defendant, advertng to paragraph 4 of support affidavit submits that the defendant is a registered Society with over 800 members, many of whom are residing in far-off places and abroad. The collection of data necessary for filing written statement for some of these members consumed time and that has caused delay is learned counsel's say. It is not necessary to dilate any further on this as learned counsel for plaintiff very fairly submits that he is not opposing the COD prayer.



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4. Therefore, this Commercial Division has to only examine that the delay sought to be condoned which has been pegged at 50 days is correct as delay beyond 120 days from the date of service of suit summons is impermissible. Adverting to paragraph 3, learned counsel for lone defendant submits that lone defendant has been served with suit summons on 21.06.2022 and the written statement ought to have been filed before 20.07.2022 [wrongly mentioned as 21.07.2022 in the support affidavit]. Be that as it may, 120 days from the date of service of suit summons elapses only on 19.10.2022. The written statement has been filed on 09.09.2022 and therefore, the computation of 50 days is not very correct as it is 49 days. This 49 days is well within the tolerance limits of 120 days from the date of service of suit summons vide amended proviso to Rule 1 of Order VIII of 'amended Code of Civil Procedure, 1908' [hereinafter 'amended CPC' for the sake of brevity and convenience] as amended by 'Commercial Courts Act, 2015 (Act 4 of 2016)' [hereinafter 'CCA' for the sake of convenience and clarity].

5. In the light of the narrative thus far, captioned application is ordered as prayed for. There shall be no order as to costs.

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