

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1834 OF 2023

M/s. Quality Fabricators and Erectors
and anr. .. Petitioners
v/s.
M/s. Prakash Metal Corporation .. Respondent

...
Ms. Rachana Harpale i/by. VMK Legal, Advocate for the
Petitioners.

...
CORAM : SANDEEP V. MARNE, J.

DATED : JULY 28, 2023.

P.C. :

1. By this petition, Petitioner challenges order dated October 13, 2022 by which the Notice of Motion No. 2643/2022 filed by the Petitioner-Defendant for recalling 'No Written Statement' order passed in Commercial Suit No.876/2021 was rejected. It is undisputed position that the Petitioner-Defendant neither filed Written Statement within the period of 30 days nor sought leave of the Court to tender Written Statement within 90 days thereafter. The Notice of Motion has been filed after expiry of period of 120 days from which, time for

filing Written Statement started running. In view of the law laid down by the Apex Court in **M/s. SCG Contracts India Pvt. Ltd Vs. K.S. Chamankar Infrastructure Pvt. Ltd & Ors.** (2019) 12 SCC 210, the Court is not empowered to condone the delay beyond the period of 120 days. There is thus no error in the impugned order. The Writ Petition being devoid of merits is **dismissed** without any orders as to costs.

(SANDEEP V. MARNE, J.)

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