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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**INTERIM APPLICATION NO.4568 OF 2022
IN
COMMERCIAL SUIT NO.79 OF 2022**

ICICI Lombard General Insurance Co. Ltd. ...Applicant

In the matter between

Bright Performance Nutrition ...Plaintiff

vs

ICICI Lombard General Insurance Co. Ltd. ...Defendant

Mr. Vishal Sheth with Kunal Naik & Ram Jay Narayan i/b Bimal
Rajasekhar for the Plaintiff.

Ms. Varsha Chavan for Defendant.

CORAM : S. M. MODAK, J.

DATED : 1ST SEPTEMBER 2023

P. C. :

INTERIM APPLICATION (L) NO.4568 OF 2022

1. Heard learned Advocate for the Applicant-Defendant and
learned Advocate for the Plaintiff-Respondent.

2. This is a commercial suit. The Defendant could not file the
written statement within initial period of 30 days and within
extended period of 90 days. The last date for filing the written

statement was 13th June 2022, whereas present Interim Application is moved on 22nd September 2022. Time was spent for collecting all the information from various departments of the defendant. It is mentioned in para 2 and 3 of the Application.

3. However, the interpretation of the provisions of Order VIII Rule 1 and 10 is well settled. There is reliance on the judgment in case of *SCG Contracts (India) Pvt. Ltd. vs. K. S. Chamankar Infrastructure Pvt. Ltd.*¹ In that case the Defendants gave explanation that he was pursuing his Application under Order VII Rule 11. However, it was turned down. So there is no scope for this Court to condone the delay, whatever may be the reasons.

4. Interim Application is dismissed.

COMMERCIAL SUIT NO.79 OF 2022

5. Let the Plaintiff to file the documents.

6. Matter be kept on **29th September 2023, at 4 pm.**

[S. M. MODAK, J.]

¹ (2019) 12 SCC 210