

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1095 OF 2023

M/s Godawri Agro Traders and ors __ Vs. __ Govind Ramgopal Laddha and anr

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.Nikhil Valesha, Advocate h/f Mr. Anand Parchure, Advocate for petitioners

CORAM : AVINASH G. GHAROTE, J.
DATE : 20/02/2023

1] The petition challenges the order dated 16.12.2022, passed in Commercial Suit No. 1/2022, whereby the application for permission to file written statement has been rejected.

2] It is contended by Mr. Valesha, learned counsel for the petitioner that there was justifiable reason for the delay, which has not been considered by the learned Commercial Court, as a result of which the impugned order stands vitiated.

3] The defendant Nos. 2 and 6, who are the petitioners herein, were served on 21.3.2022 and the application for filing the written statement was filed on 11.8.2022, beyond the period of 120 days. In **M/s SCG Contracts India Pvt Ltd Vrs. K.S. Chamankar Infrastructure Pvt. Ltd**, AIR 2019 SC (Civil) 2002, the Hon'ble Apex Court has held the period under Order 8

Rule 10 of CPC for filing of the written statement in a commercial suit within 120 days is mandatory. That being the position, the application having been filed after the lapse of the aforesaid period, the same has rightly been rejected by the learned Commercial Court. There is therefore no scope to interfere in the impugned order. The petition is dismissed. No costs.

JUDGE

Rvjalit