



A.Nos.3680, 3681 & 4365 of 2024
in C.S.(Comm.Div.) No.52 of 2024

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SENTHILKUMAR RAMAMOORTHY,J

By these three applications, defendants 1 to 4 seek condonation of the delay of 67 days in re-presenting the written statement; to condone the defective written statement; and to receive documents 1 to 11, which were filed as a typed set with the written statement.

2. Learned counsel for the applicants / defendants 1 to 4 submits that the said defendants are based in Gujarat and, consequently, were unaware of procedures relating to filing of pleadings before this Court. Therefore, he states that the written statement was printed on one side and not on both sides. He also submits that the documents relied upon by these defendants were compiled in a typed set and not filed as separate documents enclosed in a docket. In these circumstances, he submits that the written statement, which was filed on 25.03.2024, was returned. After rectifying the defects, he submits that it was re-presented on



24.04.2024. He also submits that the statement of truth was not originally appended to the written statement and that it was submitted subsequently while re-presenting the written statement on 24.04.2024.

3. In response to these submissions, learned counsel for the plaintiffs submits that the defendants have raised the contention that the plaintiffs did not append a statement of truth to the plaint. Therefore, he contends that the defendants were aware of this requirement. Even otherwise, by referring to Order VI Rule 15A of the CPC as applicable to commercial disputes, he contends that a pleading which is not verified in the manner specified under sub-rule (1) cannot be relied upon and that the Court is empowered to strike out such a pleading. He also relies upon the judgment of a Division Bench of the Delhi High Court in *Oil and Natural Gas Corporation Limited v. Planetcast Technologies Ltd.* 2023 SCC On Line Delhi 8490, particularly paragraphs 46, 57 to 59 thereof, to contend that the statement of truth is mandatory. In the absence of documents and



the statement of truth, he submits that the written statement cannot be said to have been filed on 25.03.2024.

4. The original written statement, as presented by the defendants on 25.03.2024, is on record. On perusal thereof, it is evident that the written statement was printed only on one side. It is also clear that the list of documents was hand-written on the written statement subsequently. The rubber stamp on the written statement also clearly indicates that the written statement was re-presented on 24.04.2024 after remedying the defects indicated by the Registry. Thereafter, these applications were filed between July and August 2024.

5. As correctly contended by learned counsel for the plaintiffs, the requirement to append a statement of truth so as to verify the pleading is mandatory in respect of commercial disputes. However, such defect is curable provided the party concerned takes necessary



measures within the stipulated time limit. In this case, the admitted position is that the defects were remedied on 24.04.2024, which falls within the 120 day limit from the date of service of suit summons on the defendants. Nonetheless, it should also be noticed that the completion of pleadings, which is required to be done within a maximum period of 120 days from the date of service of suit summons, has been delayed on account of the defective pleadings filed by the defendants and the time taken to file these applications to condone such defects. Consequently, in view of the objective of the Commercial Courts Act, 2015, it is necessary to put the applicants on terms.

6. For reasons set out above, these applications are allowed as prayed for subject to the condition that the applicants pay a sum of Rs.20,000/- (Rupees Twenty Thousand only) as costs to the Adyar

Cancer Institute within *three weeks* from the date of receipt of a copy



of this order.

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