



WEB COPY



C.R.P.No.5077 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5077 of 2024

and

C.M.P.No.28425 of 2024

M/s.Anand Thanga Maligai,
Rep by its Proprietor,
Mr.Sumthi Challani,
No.146, Hospital Road,
Madhuranthagam,
Chengalpet District 603 306.

...

Petitioner

Vs.

M/s.Bafna Jewellers India P Ltd.,
Rep by its Director,
Mr.M.Dharmendar Bafna,
14, Veerapan Street,
Sowcarpet, Chennai 600 079.

...

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to allow the civil revision petition, setting aside the docket order dated 06.11.2024 in I.A.SR.No.1510/2023 in COS No.1004/22 on the file of the Principal Commercial Court at Egmore, Chennai and direct the Principal Commercial Court at Egmore, Chennai to take the written statement on file in COS 1004/22.



C.R.P.No.5077 of 2024

WEB COPY

For Petitioner : Mr.S.Ramesh Kumar

ORDER

This civil revision petition challenges the order of the learned Principal Commercial Court at Egmore, Chennai, passed in I.A.SR.No.1510 of 2023 in COS No.1004 of 2022, dated 06.11.2024.

2.COS No.1004 of 2022 was originally presented before the XVI Assistant City Civil Court, Chennai. It was taken on file in O.S.No.3669 of 2021. Subsequent to the creation of the Commercial Courts at Egmore, the suit was transferred to the said Court. While the suit was pending before the City Civil Court at Chennai, the defendant filed an application to reject the plaint. This application was numbered as I.A.No.3 of 2021. The defendant pleaded that as an application for rejection of plaint had been filed, he is exempted from filing his written statement. However, the Commercial Court would have nothing of such a plea. It took note of the fact that the right to file the written statement had been forfeited as early as 11.08.2023 and that the application seeking leave to file a written statement



itself was filed after the forfeiture.

3.Under Order VIII Rule 1 of the Code as amended by the Commercial Courts Act, if a written statement is not presented within a period of 120 days, the defendant forfeits his right to present one. There is no power in the Code to extend the time. That being the situation, the Court has rightly taken the view that once a right to file a written statement has been forfeited, an application seeking extension of time to file a written statement is not maintainable.

4.The proposition of law urged by Mr.S.Ramesh Kumar that pending rejection of plaint, a written statement need not be filed can be applied in cases of regular suits. This is by virtue of Order VIII Rule 1 of the Code of Civil Procedure. The same cannot be extended to Commercial Courts, because, in 2015, the Code of Civil Procedure was amended for suits which fall under the category of Commercial suits. Since the Parliament has amended it, I have to take note of the amendment made by the Parliament to



C.R.P.No.5077 of 2024

WEB COPY

the Code and cannot apply a view, which had been rendered when the the Code of Civil Procedure stood unamended.

5. In the light of the above discussions, the civil revision petition stands dismissed and the order of the learned Principal Commercial Judge, Egmore, Chennai, is upheld.

6. The forfeiture of the right of the defendant to file a written statement will not bar him from cross examining the plaintiff on his evidence.

7. After the order has been passed, Mr. S. Ramesh Kumar, pleads that the suit may be sent for mediation. The learned Principal Commercial Judge at Egmore, Chennai, shall enquire with the parties whether they are willing for mediation. In case if they are, the learned Principal Commercial Judge shall refer them to the process of mediation.



C.R.P.No.5077 of 2024

WEB COPY

8. With the above observations, the civil revision petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

sli

20.12.2024

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

NCC: Yes/No

To:

The Principal Commercial Court at Egmore,
Chennai.

V.LAKSHMINARAYANAN,J.



WEB COPY



C.R.P.No.5077 of 2024

sli

C.R.P.No.5077 of 2024

20.12.2024