
2022(3) CIVIL COURT CASES 0601 : 2022(3) APEX COURT J 0598

SUPREME COURT OF INDIA

HEMANT GUPTA AND V.RAMASUBRAMANIAN, JJ.

Civil Appeal No.3788 of 2022 (@ SLP(C) No.63 of 2022), D/09.05.2022.

Bharat Kalra

Vs

Raj Kishan Chabra

Civil Procedure Code, 1908, Order 8 - Rule 1 - Written statement - Time limit for filing of written statement - Not mandatory. (Para 3)

Civil Procedure Code, 1908, Order 8 - Rule 1 - Written statement - Delay in filing - Can be compensated with costs but denying the benefit of filing of written statement is unreasonable. (Para 4)

Cases referred:

Kailash V. Nankhu & Ors.' reported in 2005(2) Apex Court Judgments 72 (S.C.) : 2005(2) Civil Court Cases 532 (S.C.) (Para 3)

Counsels:

Mr.Gaurav Kumar Dalal, Mr.Pradeep Teotia, Mr.Ashok Bannidinni, AOR, for the Petitioners

Mr.Shrey Ashat, Ms.Preetika Mishra, Mr.Vikrant Mehta, Mr.Sudhir Naagar, AOR, for the Respondents.

ORDER

1. Leave granted.

2. The challenge in the present appeal is to an order passed by the High Court on 12.08.2021 whereby delay of 193 days in filing of the written statement was not condoned.

3. Admittedly, the suit for injunction filed by the plaintiff is not the one which is governed by the Commercial Court Act, 2015. Therefore, the time limit for filing of the written statement under Order VIII Rule 1 of CPC is not mandatory in view of the judgment of this Court reported as '*Kailash V. Nankhu & Ors.' reported in 2005(2) Apex Court Judgments 72 (S.C.) : 2005(2) Civil Court Cases 532 (S.C.) : 2005(4) SCC 480.*

4. In view of the aforesaid judgment, we find that the delay in filing of the written statement could very well be compensated with costs but denying the benefit of filing of the written statement is unreasonable.

5. Consequently, we allow the present appeal. The order passed by the High Court is set aside. The written statement already filed is taken on record.

6. We do hope that the trial Court shall expedite the decision of the suit keeping in view the old age of the plaintiff.

7. Pending application(s), if any, also stand disposed of.
