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IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 25.01.2022

PRONOUNCING ORDERS ON : 28.01.2022

Coram:

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

**Application No.4791 of 2021
in C.S.No.697 of 2017**

1. M/s.CSCO LLC
A limited Liability Company
Rep.by its Corporate representative
Mr.David Apperman
525, Fashion Avenue, STE 1006
New York, NY 10018-4901
United States of America.
2. A Base Ix Company LLC,
A Limited Liability Company
Rep.by its Corporate Representative,
Mr.David Apperman
525, 7th Avenue, Suite 1508
New York, NY 10018
United States of America.

..Applicants

. Vs.

1. M/s.Lakshmi Saraswathi Spintex Limited
Rep.by its Managing Director
No.9 (Old No.8), Crescent Road
Shenoy Nagar, Chennai-600 030.
2. Mr.S.Naveen Chandra
Joint Managing Director
M/s.Lakshmi Saraswathi Spintex Limited
No.9 (Old No.8), Crescent Road
Shenoy Nagar Chennai-600 030.



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3. Mr.C.S.Adithya Praveen
Managing Director
M/s.Lakshmi Saraswathi Spintex Limited
No.9 Old No.8 Crescent Road
Shenoy Nagar Chennai-600 030.

.. Respondents

Prayer in A.No.4791 of 2021: Judge's Summons filed under Order XIV Rule 8 and Order 5 Rule 3 of Original Side Rules read with Section of the Limitation Act.

1. This Hon'ble Court should not be treat this application as Urgent?
2. This Hon'ble Court be not pleased to condone the delay of 563 days in filing the Written Statement of the Plaintiff for the Counter Claim filed by the Defendant in C.S.No.697 of 2017; and
3. This Hon'ble Court should not pass such further or other order or orders as this Hon'ble Court may deem fit and proper in the circumstance of the case and thus render justice?

For Applicants : Mr.Srinath Sridevan
for M/s.K.Subbu Ranga Bharathi

For Respondents : Mr.R.Sathish Kumar

Application No.4791 of 2021
in C.S.No.697 of 2017



WEB **N. ANAND VENKATESH, J.**

This Application has been filed by the applicants/plaintiffs to condone the delay of 563 days in filing the written statement for the counter claim filed by the respondents/defendants in the above suit.

2.The interesting question that arises for consideration in the present application is as to whether the Proviso to Order VIII Rule 1 of Code of Civil Procedure, which fixes the maximum period for filing the written statement as 120 days and which was held to be mandatory by the Hon'ble Supreme Court in ***SCG Contracts India Pvt. Ltd. .v K. S. Chamankar Infrastructure Pvt. Ltd. and Ors.***, reported in ***2019 (2) CTC 294***, beyond which the right to file the written statement will stand forfeited, will also apply to a written statement filed by the plaintiffs for the counter claim made by the defendants ?

3.The applicants/plaintiffs filed a suit against the respondents/defendants for the relief of permanent injunction, damages and for other consequential reliefs. The respondents/defendants filed a written statement with a delay of 113 days. The written statement was filed with a counter claim. An Application was filed in A. No. 6464 of 2018, to condone the delay in filing the written statement. The application was allowed by an order dated 20.09.2018. An appeal was filed against this order by the plaintiffs and the OSA was dismissed by an order dated 29.04.2019. Aggrieved by the same, the plaintiffs has filed an SLP before the Apex Court and notice has been ordered in the SLP and the



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4.The plaintiffs have filed a written statement for the counter claim filed by the defendants. However, there is a delay of 563 days in filing the written statement for the counter claim. This application is resisted by the respondents/defendants on the ground that the written statement for the counter claim ought to have been filed within the mandatory period of 120 days and in the absence of the same, the right of the applicants/plaintiffs to file the written statement stands forfeited and hence the respondents have sought for the dismissal of this application.

5.Heard Mr.Srinath Sridevan, learned counsel for the applicants/plaintiffs and Mr.R.Sathish Kumar, learned counsel for the respondents/defendants.

6.The learned counsel for the applicants submitted that Order VIII Rule 6-A(3) CPC., specifically provides that the plaintiffs shall be at liberty to file a written statement to the counter claim of the defendants within such period as may be fixed by the Court. The learned counsel submitted that no such period was fixed by this Court when Application No.6464 of 2018 was allowed by an order dated 20.09.2018. The learned counsel therefore submitted that Order VIII Rule 9 CPC., will apply in a case of this nature wherein the Court can fix a time for filing the written statement which shall not exceed 30 days. The learned counsel also relied upon proviso to Order VIII Rule 10 CPC., and submitted that the restriction to file the written statement beyond the period, will only apply to a written statement filed under Order VIII Rule 1 CPC., and the legislature



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has consciously omitted Rule 9 from this proviso. Hence, the learned counsel submitted that the present application can be considered by looking into the reasons assigned in the affidavit filed in support of the application to explain the delay. It was submitted that the written statement filed by the defendants with a delay was condoned and confirmed in appeal and presently this issue is pending before the Apex Court. In view of the same, there was a delay in filing the written statement for the counter claim made by the defendants and the applicants has assigned a reasonable cause for the delay which deserves to be condoned by this Court.

7.The learned counsel for the applicants also placed reliance upon the following judgments to substantiate his submissions:

a. ***Dattaram Krishnanath Pednekar and others .v. Pandurang K. Pednekar and others*** reported in **2010 (7) Mh. L.J. 386.**

b. ***Nirottam Sharma .v Ramkishore & Anr.*** reported in **2019 (1) RLW 844 (Raj.)**

c. ***Indcon Boiler Ltd. .v Maeda Corporation India and others*** reported in **2019 SCC OnLine Del 10096.**

d. ***PSA Nitrogen Limited .v Maeda Corporation and Ors.*** reported in **MANU/DE/3060/2019**

8.Per contra, the learned counsel for the respondents/defendants submitted that Order VIII Rule 6-G CPC., makes it abundantly clear that rules relating to a written statement shall equally apply to a written statement filed in answer to a counter claim. In



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view of the same, the mandatory period of 120 days that has been fixed for filing the written statement of the defendants, will equally apply to the written statement filed by the plaintiffs for the counter claim. The learned counsel submitted that written statement and the counter claim was taken on file on 20.09.2018 when Application No.6464 of 2018 was allowed by this Court. Hence, the period of limitation for filing the written statement for the counter claim started from that day. Admittedly, the written statement has not been filed by the plaintiffs within 120 days from 20.09.2018. It is therefore submitted that on this ground alone, the present application is liable to be dismissed by this Court.

9.This Court has carefully considered the submissions made on either side, the relevant provisions and also the judgments relied upon by the learned counsel for the applicants/plaintiffs.

10.The language employed under Order VIII Rule 6-A CPC., makes it clear that a defendants in a suit can seek for a counter claim and such counter claim will have the same effect as a cross suit, so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter claim. The counter claim shall be treated as a plaint and it is governed by the rules applicable to plaints. It is also clear from Order VIII Rule 6-G CPC., that the rules relating to a written statement by the defendants shall apply to a written statement filed in answer to a counter claim.

11.It is further clear from a reading of Order VIII Rule 6-E CPC., that where



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plaintiffs fails to file a written statement for the counter claim made by the defendants, the Court can proceed further to pronounce a judgment against the plaintiffs in relation to the counter claim made against him. The counter claim is in the nature of a plaint and it is considered like an independent suit, in the eye of law and that is the reason why Rule 6-D specifically provides that even if the main suit is stayed, discontinued or dismissed, counter claim can be proceeded with independently. Any order passed in the counter claim will have the effect of a decree under Section 2 (2) of CPC.

12. Keeping the above provisions in mind, this Court will now consider the judgments relied upon by the learned counsel for the applicants/plaintiffs.

13. The Bombay High Court in **Dattaram Krishnanath** case referred supra, while dealing with the time limit to file a written statement to the counter claim, held as follows:

“12. Shri Rivonkar, the learned Counsel has placed reliance on a decision of this Court in the case of Mrs. Shalini Nunes Mascarenhas and others v. Mr. Trevor Nunes and another(2009(2) Goa L.R. 222) to contend that the time limit to file a W.S. to the counterclaim was governed by Order 8, Rule 6A(3) which provides that the plaintiffs shall be at liberty to file written statement in answer to the counterclaim of the Defendants within such period as may be fixed by the Court. Ms. Mesquita, the learned Counsel appearing on behalf of the Defendant Nos.2 to 7 has then submitted that the decision in the case of Mrs. Shalini Nunes Mascarenhas and others v. Mr. Trevor Nunes and another(supra) is per



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incuriam in that it did not take into consideration the provision of Rule 6G of Order 8, C.P.C. which provides that the Rules relating to a written statement by a defendant shall apply to a written statement filed in answer to a counter claim.

*13. Be that as it may, there can be no dispute that the provisions of Rule 6A onwards of Order 8, C.P.C. were inserted by the Code of Civil Procedure (Amendment) Act, 1976 w.e.f. 1-2-1977 while the provisions of Rule 1 of Order 8 were substituted by the Code of Civil Procedure (Amendment) Act, 2002 w.e.f. 1-7-2002. It is well settled by now that the provision of Rule 1, Order 8, is directory and not mandatory and it can be stretched in rare and exceptional cases. Rule 1, Order 8 was intended to cut down laws of delays, intentionally created or otherwise. In this context, it would be apt to refer to the case of **Rani Kusum v. Kanchan Devi and others**((2005) 6 SCC 705) wherein the Apex Court has stated that Order 8, Rule 1, after the amendment casts an obligation on the defendant to file the written statement within 30 days from the date of service of summons on him and within the extended time falling within 90 days. The provision does not deal with the power of the Court and also does not specifically take away the power of the Court to take the written statement on record though filed beyond the time as provided for. The substituted Order 8, Rule 1 intends to curb the mischief of unscrupulous defendants adopting dilatory tactics, delaying the disposal of cases causing inconvenience to plaintiffs and petitioners approaching the Court for quick relief and also to the serious inconvenience of the Court faced with frequent prayers for adjournments. The object is to expedite the hearing and not to scuttle the same.*

*14. The Apex Court in **R. N. Jadi & Brothers and others v. Subhashchandra**((2007) 6 SCC 420) has held that the provisions of Order 8, Rule 1 are directory but that the grant of extension of time*



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beyond 30 days is not automatic, that it should be exercised with caution and for adequate reasons and that an extension of time beyond 90 days of the service of summons must be granted only based on a clear satisfaction of the justification for granting such extension, the Court being conscious of the fact that even the power of the Court for extension inerring in Section 148 of the Code, has also been restricted by the legislature. It would be proper to encourage the belief in litigants that the imperative of Order 8, Rule 1 must be adhered to and that only in rare and exceptional cases, will the breach thereof will be condoned. Such an approach by Courts alone can carry forward the legislative intent of avoiding delays or at least in curtailing the delays in the disposal of suits filed in Courts. The lament of Lord Denning was also quoted that “the law's delays have been intolerable and last so long as to turn justice sour, is true of our legal system as well. Should that state of affairs continue for all times?”

15. Reverting to the controversy, that the provisions of Order 8, Rule 1, do not apply to a written statement in answer to the counterclaim is a question which is no longer *res integra*, with the decision of this Court in the case of **Mrs. Shalini Nunes Mascarenhas and others v. Mr. Trevor Nunes and another**(*supra*) wherein this Court has held that the filing of the written statement to the counterclaim, is not governed by Order 8, Rule 1, C.P.C. but it is governed by Order 8, Rule 6A(3), C.P.C. In terms of the said sub-rule, the trial Court is expected to fix time for filing the written statement to the counterclaim. The necessary conclusion, therefore, is that Order 8, Rule 1, C.P.C. is not applicable to the written statement filed by the plaintiffs to the counterclaim filed by the Defendants. In my view, the provisions of Rule 6G of Order 8 have nothing to do with the provisions of sub rule(3) of Rule 6A, Order 8. When Rule 6G, Order 8 states that the Rules relating to a written statement by Defendant shall apply to a written statement filed in answer to a counterclaim, it only



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refers to the contents of the W.S. and has nothing to do with the time limit set out for filing of the written statement in answer to counterclaim, in sub rule (3) of Rule 6A, Order 8. Likewise, when sub rule (4) of Rule 6A of Order 8 provides that the counterclaim shall be treated as a plaint and governed by the Rules applicable to plaints, it has nothing to do with Order 8 but will have everything to do with Order 7, which deals with contents of a plaint.

16. Therefore, the conclusion is inescapable that the time limit of filing a W.S. in answer to a counterclaim is governed by sub rule (3), Rule 6A, Order 8, C.P.C. i.e. within such time as may be fixed by the Court.”

14. The Bombay High Court in the above judgment has concluded by holding that the time limit for filing a written statement for a counter claim is governed by Order VIII Rule 6-A (3) and not under Order VIII Rule 1 CPC., and consequently it was held that written statement in such cases should be filed within such time fixed by the Court.

15. The next judgment that has been pressed into service is the judgment of the Rajasthan High Court in **Nirottam Sharma** case referred supra. The Rajasthan High Court dealt with the same issue with regard to the scope of Order VIII Rule 6-A (3) and it was held as follows:

“7. In the light of the provisions if we look to the facts of the case then the default as mentioned in Rule 6E above would apply only when time has been laid down by the Court to file reply. The default would not be with regard to seeking time to file reply, but would occur where time has been granted by the Court and the plaintiff does not file his reply



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within that time. Thus, the action of granting time by the Court precedes the role of the plaintiff to file reply.

8. As in the present case, Court has not given time to plaintiff file reply to the counter claim and therefore, it cannot be said that the default would lie on the part of the plaintiff, when the plaintiff moved an application praying for allowing him to file reply to the counter-claim. The Court was duly bound to give time to the plaintiff in terms of Order 6A (3) and if within that time the plaintiff would not have filed his reply, Order 8 Rule 6(E), would have come into operation. The view is supported by the judgment of Bisarti Bal v. Ratnawali of MP High Court as cited by learned counsel for the petitioner. The Court has observed as under:—

“(5) To consider the rival condition of the parties in this case, factual position is not disputed. The appellants filed a counter claim/cross suit under Order 8 Rule 6-A CPC. This counter claim requires Court fee and until and unless Court fee is paid, counter claim itself was defective. The trial Court after filing of the written statement has not extended any opportunity to file written statement to counter claim as required under Rule 6-G of Order 8 CPC which was mandatory requirement under the law after entertaining the counter claim in the matter. As soon as counter claim was entertained after payment of the court fee, the trial Court ought to have extended such opportunity to the plaintiff/respondent to file written statement. But such opportunity was not allowed to the plaintiff/respondent. In these circumstances, trial Court committed gross error in not extending such opportunity to the plaintiff/respondent which has been rectified by the appellate Court. Now plaintiff/respondent shall get an opportunity to file reply to the counter claim. On the basis of pleadings, trial Court has to frame issues, if necessary, and thereafter extending opportunity to the parties to lead evidence, has to decide the case afresh.”



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16. The Rajasthan High Court has also taken the same view to the effect that the Court must fix the period for filing the written statement for the counter claim and if the written statement is not filed within the stipulated time, the consequence under Rule 6-E will follow.

17. The next judgment relied upon is the judgment of the Delhi High Court in *Indcon Boiler Ltd.*, case. In this case, the Delhi High Court was dealing with the very same issue with regard to the condonation of delay in filing the written statement for the counter claim and the impact of the mandatory period fixed by the Code. The relevant portions in the judgment are extracted hereunder:

“4. Under the Commercial Courts Act, read with the provisions of the CPC, it is clear that a counter-claim is governed by the same rules as applicable to plaintiffs. In commercial suits, in view of the provisions of Order VIII Rule 1 CPC and Order VIII Rule 10 CPC, the Court cannot make an order extending time for filing of the written statement. This is also clearly settled by the judgement of the Supreme Court in SCG Contracts India Pvt. Ltd. v. K.S. Chamankar Infrastructure Pvt. Ltd., Civil Appeal 1638/2019 (Decided on 12th February, 2019). Order VIII Rule 6A CPC reads as under:

“(1) A defendant in a suit may, in addition to his right of pleading a set-off under rule 6, set up, by way of a counter claim against the claim of the plaintiff, any right or claim in respect of a cause of action accruing to the defendant against the plaintiff either before or after the filing of the suit but before the defendant has delivered his defence or before the time limited for



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delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not; Provided that such counter-claim shall not exceed the pecuniary limits of the jurisdiction of the Court.

(2) Such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim

(3) The plaintiff shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period as may be fixed by the Court.

(4) The counter claim shall be treated as a plaint and governed by the rules applicable to plaints.”

5. Order IV Rule 1 & 2 CPC requires every plaint to be registered by the Court. The said provision reads as under:

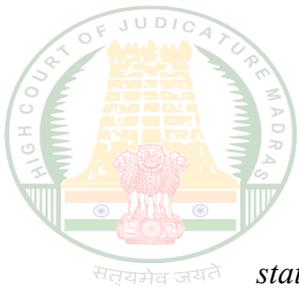
“1. Suit to be commenced by plaint - (1) Every suit shall be instituted by presenting a plaint in duplicate to the Court or such officer as it appoints in this behalf.

(2) Every plaint shall comply with the rules contained in Orders VI and VII, so far as they are applicable.

(3) The plaint shall not be deemed to be duly instituted unless it complies with the requirements specified in sub-rules (1) and (2)

1. Register of suits- The Court shall cause the particulars of every suit to be entered in a book to be kept for the purpose and called the register of civil suits. Such entries shall be numbered in every year according to the order in which the plaints are admitted.”

6. A conjoint reading of the above-mentioned provisions clearly shows that every counter-claim is required to be registered by the Court. Only thereafter can summons be issued by the Court. The time for filing a written



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statement runs from the date of service of summons.

7. It is perfectly possible that in case of a Counter Claim, when it is presented, the Plaintiff may accept summons in the Court itself. However, the order ought to record specifically that the Counter claim is registered and service of summons is accepted. It is only thereafter that the time for the Plaintiff to file its written statement to the counter-claim begins to run.

8. Since, the suit originally was instituted on the original side of this Court and thereafter transferred to the Saket District Court, it appears that the counter-claim never came to be registered. The Commercial Courts Act was thereafter notified. In view of this prevailing confusion in the proceedings of the suit, it appears that the Plaintiff did not file the written statement to the counter-claim.

9. Under these circumstances, the written statement of the Plaintiff to the counter- claim of the Defendants is permitted to be taken on record, subject to payment of Rs. 10,000/- as costs. The costs be paid within a period of two weeks from today. It is made clear that henceforth, the suit and the counter claim would proceed under the provisions of the Commercial Courts Act, 2015. If any additional issue needs to be framed in view of the written statement to the counter-claim being taken on record, let the needful be done by the Id. Trial Court on the next date of hearing. It is submitted that the Plaintiff has already filed its evidence.

10. The evidence filed by the Plaintiff shall be tendered and proceeded with in accordance with law. Considering that the suit is a commercial suit, it is directed that the same shall be decided expeditiously. With these observations, the petition and pending application are disposed of.



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Registration of Counter-claims and guidelines therefor

11. In order to avoid situations as has arisen in the present case, it is further directed that all trial courts shall follow the procedure set out below, in respect of counter-claims:

a. Trial Courts ought to ensure that Counter-Claims are examined by the Presiding Officer at the time when the same are presented before the Court.

b. A specific order shall be passed directing registration of the counter claim and a number being allotted to the same.

c. If the Plaintiff or the Counsel for the Plaintiff is present, a specific order shall also be passed to the effect that service of summons in the counter-claim is accepted.

d. If there is more than one plaintiff, and any of the plaintiffs is not present or is not represented in the court, proper summons shall be directed to be issued to the said Plaintiffs.

e. The time period for filing of the written statement shall then commence.”

18. The Delhi High Court has taken a view to the effect that a counter claim is also governed by the same rules applicable to plaints and that insofar as the counter claim is concerned, it has to be registered and summons must be sent to the plaintiffs in the counter claim or the learned counsel appearing for the plaintiffs must be asked to accept the summons in the counter claim. The time period for filing the written statement will commence only thereafter. The Delhi High Court proceeded to issue guidelines in this regard for providing more clarity while dealing with counter claims.



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19. The learned counsel for the applicants also placed reliance upon Order VIII Rule 9 CPC. A careful reading of the said provision shows that no pleading subsequent to the written statement of the defendants can be presented except with the leave of the Court. However, such leave is not required where the pleadings pertain to a defence to set-off or counter claim. In order to keep a check on a possible delay that can arise while filing a defence for the set-off or counter claim, the Court has been given the power to fix a time limit to file such defence not exceeding 30 days.

20. It is also important to take note of the amended proviso to Rule 10 and for proper appreciation, the same is extracted hereunder:

“Provided that no Court shall make an order to extend the time provided under Rule 1 of this Order for filing the written statement”

21. The legislature has consciously omitted Rule 9 in this proviso. Therefore the time limit that is fixed under Rule 9 can be extended by a Court for filing a written statement in appropriate cases and the total bar imposed under Rule 1 is not made applicable for Rule 9.

22. In the considered view of this Court, when it comes to filing a written statement for a counter claim, the same is specifically dealt with under Order VIII Rule 6-A(3) of CPC. In such cases, a duty has been cast upon the Court to fix the time limit.



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While fixing such time limits, the Court is guided by Order VIII Rule 9 of CPC., wherein the Court can fix a time limit of not more than 30 days for presenting the written statement for a counter claim. Even though leave is not required for filing a written statement for the counter claim, since it is a matter of right for the plaintiffs, the Court can always fix a time limit for filing such a written statement. Hence, when a counter claim is filed by the defendants, the Court has to specifically pass an order while taking the counter claim on file, directing summons to be served on the plaintiffs or if the plaintiff is represented by a counsel, directing the counsel to accept service of summons on behalf of the plaintiff. The time limit for filing the written statement for the counter claim will commence only thereafter.

23. This Court on the original side is governed by the Madras High Court Original Side Rules. Order V Rules 2 to 5 of the Original Side Rules speaks about the procedure for filing the written statement for the counter claim and the time limit within which it has to be filed. However even under these rules, there is no rigid time limit for filing the written statement for the counter claim and discretion is given to the Court to extend the time for filing the written statement. These rules must also be kept in mind since there is nothing available under the amended provisions of CPC., governing the Commercial Division running contrary to these rules and which specifically deals with the time limit for filing the written statement for a counter claim. Some clarity is required to be given for a written statement filed by the plaintiffs for the counter claim made by the defendants since Order VIII Rule 1 of CPC., does not apply and it is only Order VIII Rule



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6-A (3) which specifically provides for the Court to fix such period for filing the written statement. The Court while fixing such a time limit for filing the written statement, can always keep in mind the object behind the Commercial Courts Act and ensure that the written statement is filed within the mandatory period fixed for the defendants. It will always be open to the Court acting under the Commercial Courts Act, to forfeit the right of the plaintiffs if the written statement for the counter claim is filed beyond the time limit fixed by the Court, without showing sufficient cause.

24. The judgment of the Hon'ble Supreme Court in **SCG Contractors India Pvt. Ltd.**, referred supra specifically dealt with the scope of Order VIII Rule 1 r/w Order VIII Rule 10 of CPC. Therefore, the Apex Court was only dealing with the mandatory period fixed for filing a written statement by the defendants. The time period for filing a written statement for the counter claim was not within the scope of the said judgment.

25. In view of the above discussion, this Court holds that the Proviso to Order VIII Rule 1 of Code of Civil Procedure, which fixes the maximum period for filing the written statement as 120 days and which was held to be mandatory by the Hon'ble Supreme Court in **SCG Contracts India Pvt. Ltd. Vs. K. S. Chamankar Infrastructure Pvt. Ltd. and Ors.**, reported in **2019 (2) CTC 294**, beyond which the right to file the written statement will stand forfeited, will not apply to a written statement filed by the plaintiffs for the counter claim made by the defendants and such cases will be governed only by the time period fixed by the Court under Order VIII Rule 6 A(3) of CPC. This Court



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सत्यम् hastens to add that while fixing the time limits, appropriate Orders must be passed as indicated supra and the outer limit of 120 days fixed for the defendants, must be kept in mind.

26. In the present case, the plaintiffs have already challenged the Order passed in Application No. 6464 of 2018 wherein this Court condoned the delay in filing the written statement and the matter is now pending before the Apex Court. The plaintiffs were awaiting for the orders of the Apex Court and hence did not proceed to file the written statement for the counter claim made by the defendants. This Court made it very clear while passing an order on 01.12.2021 that in the absence of an order of stay passed by the Apex Court, the proceedings cannot be kept in abeyance and that this Court will proceed further with the suit. It is only thereafter, the present application came to be filed to condone the delay in filing the written statement for the counter claim. Hence, the applicants/plaintiffs have shown a reasonable cause for the delay in filing the written statement for the counter claim. That apart, when the application was allowed in Application No. 6464 of 2018 by an order dated 20.09.2018, this Court did not direct the counsel for plaintiffs to accept summons in the counter claim and this Court also did not pass any order fixing the period for filing the written statement for the counter claim under Order VIII Rule 6 (3) of CPC. Hence, there was no time limit acting against the plaintiffs and the plaintiffs have also given a reasonable cause for the delay in filing the written statement for the counter claim.



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27. In view of the above, this Court is inclined to condone the delay in filing the written statement for the counter claim and accordingly, this application is allowed.

Considering the facts and circumstances of the case and taking into account the delay on the part of the applicants/plaintiffs in filing the written statement for the counter claim, the applicants/plaintiffs are directed to pay costs of a sum of Rs.10,000/- to the Tamil Nadu State Legal Services Authority on or before 11.02.2022.

28.01.2022

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N.ANAND VENKATESH, J.

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Pre-Delivery Order in
Application No.4791 of 2021
in C.S.No.697 of 2017

28.01.2022