

RAGHUBIR SARAN AND SONS Vs. RPG INTERNATIONAL AND ORS

20.12.2022

Present: Sh Jagdish Arora, counsel for the plaintiff.

Sh Vinay Pandey & Sh. Ishan K.Dubey, counsels for the defendants.

The present application u/o- VIII rule 1 CPC for condonation of delay in filing the W.S have been filed on behalf of the applicant/defendants.

The reply to the above-said application have also been filed on behalf of the plaintiff.

Heard. File perused.

It has been submitted on behalf of the applicant/defendants that the defendants were required to file the W.S within the outer limit of 120 days from the date of the service i.e. 22.11.2021 in terms of order dated 29.1.2022 passed by the Ld. Predecessor of this court. It is further submitted that the W.S have been e- filed on 17.3.2022 and physically filed on 21.3.2022 in the instant case . It is also submitted that the W.S filed on behalf of the applicant/defendants was within the period of limitation in terms of order dated 10.1.2022 passed by the Hon'ble Supreme Court of India in suo-motu Writ Petition (C) No.3 of 2020 and it has been prayed that the W.S filed on behalf of the applicant/defendants may be taken on record.

On the other hand it has been submitted on behalf of the plaintiff that the present application filed on behalf of the applicant/defendants was not maintainable as the grounds mentioned therein were manufactured, false and fictitious. It is further submitted that the defendants had sufficient time to file the W.S but they have intentionally and deliberately not filed the W.S within the period prescribed by law. It is also submitted that the instant application filed on behalf of the defendants is devoid of any merits and it has been prayed that the said application for condonation of delay may be

dismissed with cost.

I have duly considered the submissions made on behalf of applicant/defendants and plaintiff and have carefully gone through the record of the case .

In the present case, the perusal of the record reveals that the defendants were required to file the W.S within the outer limit of 120 days from the date of the service i.e. 22.11.2021 in terms of order dated 29.1.2022 passed by the Ld. Predecessor of this court. The perusal of the record further reveals that the W.S have been e- filed on 17.3.2022 and physically filed on 21.3.2022 in the instant case .

Vide order dated 10.1.2022 passed in suo-motu Writ Petition (C) No.3 of 2020 , it has been laid down by the Hon'ble Supreme Court of India that :-

- I. The order dated 23.3.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.4.2021 and 23.9.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*
- II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.3.2022.*
- III. In cases where the limitation would have expired during the period between 15.3.2020 till 28.2.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.3.2022 . In the event the actual balance period of limitation remaining, with effect from 01.3.2022 is greater than 90 days that longer period shall apply.*

In view of the above, it is evident that vide aforesaid order dated 10.01.2022, the Hon'ble Supreme Court of India had extended the limitation period by 90 days with effect from 01.3.2022, in cases where the

limitation expired during the period between 15.3.2020 to 28.2.2022, notwithstanding the actual balance period of remaining limitation. It has been further held therein that in the event the actual balance period of limitation remaining with effect from 01.3.2022 was greater than 90 days, the longer period shall apply. Hence, an extended period of 90 days limitation has been provided commencing from 01.3.2022.

In the instant case, the perusal of the record reveals that the period of limitation for filing the W.S by the defendants commenced with effect from 22.11.2021 as was evident from the order dated 29.1.2022 passed by the Ld. Predecessor of this court. The perusal of the record further reveals that in the instant case, the W.S have been e- filed on 17.3.2022 and physically filed on 21.3.2022 , i.e. within the extended period of limitation as provided vide above-said order dated 10.1.2022 passed by the Hon'ble Supreme Court of India .

Thus in view of the above discussion and observations and in view of the above mentioned order dated 10.1.2022 passed by the Hon'ble Supreme Court of India in suo-motu Writ Petition (C) No.3 of 2020, the W.S filed on behalf of the applicant/defendants is taken on record.

Accordingly, the present application u/o- VIII rule 1 CPC filed on behalf of the applicant/defendants stands disposed of.

In view of the above, put up for arguments on application u/o- XIII -A r/w section 151 CPC and F.P alongwith the connected case on 15.2.2023, as requested.

(Paramjit Singh)
District Judge(Commercial Court)-06
Central District,Tis Hazari Courts, Delhi
20.12.2022