

2022 LiveLaw (SC) 465

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

HEMANT GUPTA; V. RAMASUBRAMANIAN, JJ.

CIVIL APPEAL NO.3788 OF 2022 (@ SLP(C) No.63 of 2022); 9th MAY, 2022

BHARAT KALRA *Versus* RAJ KISHAN CHABRA

Code of Civil Procedure, 1908; Order VIII Rule 1 - The time limit for filing of the written statement is not mandatory - Delay in filing of the written statement could very well be compensated with costs. [Referred to *Kailash vs Nankhu* (2005) 4 SCC 480] (Para 3-4)

(Arising out of impugned final judgment and order dated 12-08-2021 in CMM No. 429/2021 passed by the High Court of Delhi at New Delhi)

For Petitioner(s) Mr. Gaurav Kumar Dalal, Adv. Mr. Pradeep Teotia, Adv. Mr. Ashok Bannidinni, AOR

For Respondent(s) Mr. Shrey Ashat, Adv. Ms. Preetika Mishra, Adv. Mr. Vikrant Mehta, Adv. Mr. Sudhir Naagar, AOR

ORDER

Leave granted.

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.

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) 4 SCC 480**.

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.

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.

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

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