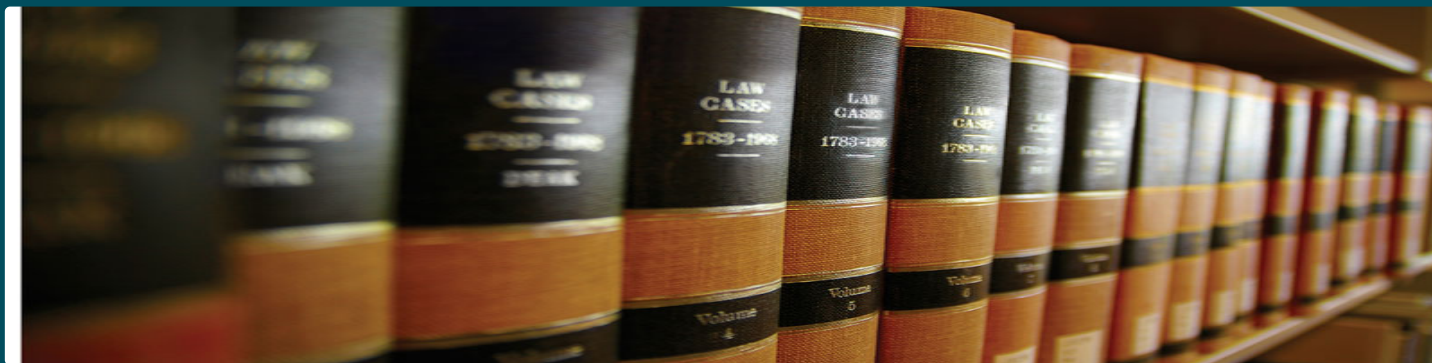




CIVIL

Supreme Court: Courts Cannot Relax Time Limit for Filing Written Statement in Commercial Disputes

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The Supreme Court of India in a recent judgment, in *SCG Contracts India Pvt. Ltd. v. K.S. Chamankar Infrastructure Pvt. Ltd. & Ors.*^[1], held that written statement can't be filed in commercial disputes after 120 days from the date of issue of summons. The Supreme Court was considering legality of the written statement filed by the defendant after the statutory period of 120 days.

Background

In the present case, the defendant didn't file the written statement within 120 days from the date of issue of summons to suit. Instead, it filed an application for rejection of the plaint under Order VII Rule 11 of the Civil Procedure Code 1908 ("CPC"). The learned Single Judge of the Delhi High Court rejected this application and provided an additional time to the defendant to file the written statement, beyond the prescribed 120 days. The defendant filed the written statement within this extended time.

The Plaintiff raised objection before the High Court on the ground that filing of written statement after 120 days is barred under Order VIII Rule 10 of the CPC as amended by the Commercial Courts Act, 2015 ("Act"). The High Court rejected this contention and took the written statement on record.

The plaintiff petitioner approached the Supreme Court against this order.

Judgment

The Honorable Supreme Court examined the amendments brought to CPC by the Act especially amendments to Order V Rule 1 (1), Order VIII Rules 1 and 10 of the CPC.

Originally, there was no distinction between commercial disputes and other disputes under the CPC. Courts allowed filing of written statement even after the prescribed statutory period of 30 days and the grace period 90 days. The Act brought about certain amendments to CPC, which are exclusively applicable to commercial suits, with the object of laying down certain stringent time line for timely disposal of commercial suits.

After examining the provision of Act, the Supreme Court held that the amendments provide a time period of 30 days from the date of service of summons to file written statement. Courts may extend this time period for reason to be recorded and on payment of cost for another period of 90 days. However, no extension shall be allowed beyond 120 days and on expiry of this period, the defendant shall forfeit the right to file the written statement.

The Supreme Court held that courts have no power to take the written statement on record after the expiry of 120 days. Hence, the ground that pendency of an application to reject the plaint under Order VII Rule 11 is no ground for extension of time line for filing written statement. Similarly, courts cannot resort to its inherent power under CPC to extend the time line

^[1] Civil Appeal No. 1638 Of 2019