

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS _____ OF 2024
(Arising out of SLP (C) Nos 23182-23183 of 2022)

Shailendra Kumar Sisodiya & Ors

... Appellants

Versus

Rani Sisodiya @ Ranjana & Anr.

... Respondents

ORDER

- 1 Leave granted.
- 2 The Respondent No.1 (original plaintiff) although served with the notice issued by this Court, yet has chosen not to remain present before this Court either in present or through an advocate.
- 3 These appeals arise from an order passed by the High Court of Madhya Pradesh, at Gwalior dated 3rd March, 2022 in Miscellaneous Petition No. 3389 of 2021 and order dated 7th September, 2022 in RP No 484 of 2022 filed by the appellants herein by which the High Court rejected the application and thereby declined to permit the appellants (original defendants) from filing written statement in the suit instituted by the original plaintiff (Respondent No.1 herein).
- 4 It appears from the materials on record that the plaintiff instituted Civil Suit No. RCS/197A of 2016 in the Court of Senior Judge-III, Senior Division, District Guna (M.P.) for declaration of permanent injunction. It is not in dispute that in the said suit, the defendants failed to appear. However, the suit ultimately came to be

dismissed on its own merits by judgment and order dated 19 June 2017.

- 5 The original plaintiff (Respondent No.1 herein), being dissatisfied with the judgment and order passed by the Civil Court referred to above, preferred Civil Appeal No. 41A of 2017 along with an application under Order XLI Rule 27 of the Code of Civil Procedure to lead additional evidence.
- 6 The first appellate court, by order dated 30 June 2020, allowed the civil appeal as well as the application to lead additional evidence and remanded the matter to the Trial Court. While allowing the appeal filed by the original plaintiff, the first appellate court observed the following in Paragraph 26 :

“26. Therefore, under the application submitted by the appellant, Order 41 Rule 27 of CPC. Accepted and submitted along with the said application, the documents of Annexure No.1 to 12 and the affidavit of the main examination of Pandit Shri Radha Vallabh Sharma and 14 photographs of the alleged marriage attached in the record of the trial court are taken on record as additional evidence and After passing the judgment and decree of the learned Trial Court, the case is reversed with the direction that the Trial Court should take the above documents on record as additional evidence and give them a reasonable opportunity of evidence to the appellant/s to get them certified and exhibited. Provide and provide proper and duly opportunity of evidence to the counter-appellants/defendants to refute the above documents and pass judgment on the merits by giving opportunity to the parties to be heard.”

(Emphasis supplied)

- 7 Thus, it appears from the aforesaid that while allowing the appeal as well as the application under Order XLI Rule 27 of the Code of Civil Procedure, to lead additional evidence, the appellate court clarified that due opportunity shall be given to the defendants to refute the claim of the plaintiff.

- 8 As regards the timeline for filing of written statement in a non-commercial dispute, the observations of this Court in a catena of decisions, more particularly in *Atcom Technologies Ltd. v. Y.A. Chunawala & Co.* reported in (2018) 6 SCC 639 holds the field. The unamended Order 8 Rule 1 CPC continues to be directory and does not do away with the inherent discretion of courts to condone certain delays.
- 9 However, it would be gainsaid that although the unamended Order 8 Rule 1 CPC is directory, it cannot be interpreted to bestow a free hand to on any litigant or lawyer to file written statement at their own sweet will and/or to prolong the lis. The legislative objective behind prescription of timelines under CPC must be given due weightage so that the disputes are resolved in a time-bound manner. Inherent discretion of courts, like the ability to condone delays under Order 8 Rule 1 is a fairly defined concept and its contours have been shaped through judicial decisions over the ages. Illustratively, extreme hardship or delays occurring due to factors beyond control of parties despite proactive diligence, may be just and equitable instances for condonation of delay. [See : *Desh Raj v. Balkishan*, (2020) 2 SCC 708]
- 10 We take notice of the fact that the petitioner no. 1 (original defendant no. 1) is a lady and was in judicial custody for quite some time before she came to be released on bail by this Court in 2018. The other two petitioners are minors.
- 11 In such circumstances referred to above, we are of the view that one opportunity should be given to the petitioners herein to file appropriate written statement.
- 12 In the result, these Appeals succeed and are hereby allowed. The impugned

order passed by the High Court is set aside. We grant eight weeks time to the appellants herein (original defendants) to file appropriate written statement before the Civil Court. There shall be no order as to costs.

13 Pending applications, if any, stand disposed of.

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
May 13, 2024
GKA

ITEM NO.60

COURT NO.17

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).23182-23183/2022

(Arising out of impugned final judgment and order dated 03-03-2022 in MP No. 3389/2021 07-09-2022 in RP No. 484/2022 passed by the High Court Of M.p At Gwalior)

SHAILENDRA KUMARI SISODIYA & ORS.

Petitioner(s)

VERSUS

RANI SISODIYA @ RANJANA & ANR.

Respondent(s)

WITH

SLP(C) No. 21962/2022 (IV-C)

Date : 13-05-2024 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Triloki Nath Razdan, AOR
Mr. Prashant Shukla, Adv.
Mrs. Anushree Shukla, Adv.
Ms. Aishvarya, Adv.
Ms. Charu Pajput, Adv.
Ms. Charu Rajput, Adv.

For Respondent(s) Mr. Shashank Singh, AOR (Not Present)

UPON hearing the counsel the Court made the following
O R D E R

SLP (C) Nos 23182-23183 of 2022

- 1 Leave granted.
- 2 The appeals are allowed in terms of the signed order.

3 Pending applications, if any, stand disposed of.

SLP (C) No 21962 of 2022

1 We are not inclined to entertain the Special Leave Petition under Article 136 of the Constitution.

2 The Special Leave Petition is accordingly dismissed.

3 Pending application, if any, stands disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(VEENA RANI NAGPAL)
COURT MASTER

(Signed order is placed on the file)