

CS 131/24
SATISH KUMAR Vs. OM PRAKASH MEHTO

11.09.2025

Present: Sh. Sagar Dwivedi, Sh. Abhishek Swami and Sh. Dipin Yadav,
Ld. counsel for plaintiff.
Ld. counsel for defendant.

Arguments on application u/O VII Rule 11 CPC heard on behalf of plaintiff.

Counsel for defendant submits that the main counsel is unable to join VC. Other counsels in other matters are already on VC and thus, there appears to be no reason which would prevent the counsel for defendant to be unable to join through VC. Be that as it may, counsel for defendant is at liberty to address arguments on the aforesaid application till 3:00 pm today.

Put up for orders at 4:00 pm.

AASHISH GUPTA
DJ-01/NE/KKD/DELHI
11.09.2025

At 4:00 pm

Present : None.

1. Despite opportunity, counsel for defendant did not appear to address arguments on his application u/O VII Rule 11 CPC. I am not inclined to give any further for counsel for defendant to appear and address arguments on the said application. Thus, I proceed to decide the said application on merits.

2. Before coming to the application in hand, a brief background of the case is necessary.
3. Plaintiff has sued the defendant on the basis of two cheques dated 08.08.2019 and 20.08.2019, both for a sum of Rs.4,35,000/- each. Plaintiff claims to have given a friendly loan to defendant which is alleged to have been discharged by way of the said cheques.
4. Now, defendant claims in the application that neither did he give any loan nor the case can proceed for trial as both the cheques are barred by time.
5. Counsel for plaintiff submitted that whether any loan was given or not, it is a question of trial and that cannot be a ground for rejecting the plaint u/O VII Rule 11 CPC.
6. With respect to the argument of limitation, it is submitted that due to corona pandemic, the Hon'ble Supreme Court of India in **Suo Moto writ petition civil no. 3/2020** had ordered exclusion of time period from 15.03.2020 to 28.02.2022 from calculation of period of limitation and if the benefit of the said order is given to the plaintiff, the entire suit is within time.
7. As noted above, plaintiff has filed the present case on the basis of two cheques dated 08.08.2019 and 20.08.2019. No specific time period is alleged in the plaint claiming as to when the said cheques were presented. Thus, it appears that the said two cheques were liable to payment on presentation/demand made through the concerned banker and thus, the present case would be covered under Article 35 of Limitation Act, 1963. Under the said Article, the period of limitation is three years for a bill of exchange payable on demand

(which is not accompanied by any writing restraining or postponing the right to sue). The said period of three years is to begin to run from the date of the bill of exchange.

8. This means that for the cheque dated 08.08.2019, the limitation was to expire on 08.08.2022 and for the bill dated 20.08.2019, the limitation was to expire on 20.08.2022.
9. Now, as per the judgment **SMW(C) no. 3/2020**, the Hon'ble Supreme Court of India has, vide its order dated 10.01.2022, *inter alia* 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.**
10. As is evident from the record, the limitation for filing of suit on the basis of the two cheques was to expire on 08.08.2022 and 20.08.2022. But, considering the aforesaid order passed by the Hon'ble Supreme Court of India, the entire period of 15.03.2020 till 28.02.2022 shall have to be excluded altogether for computing the period of limitation. This means that while calculating the limitation period of three years from the date of each of the cheque (i.e. 08.08.2019 and 20.08.2019), the period of 1 year, 11 months & 13 days (falling between 15.03.2020 till 28.02.2022) shall have to be excluded.
11. Now, if the said period is excluded from the computation of limitation qua the cheques in question, the present suit on the basis of the said two cheques is within the period of three years and as such, the contention of the defendant that the suit is barred by time is misconceived.

12. Again, the contention of the defendant that he never took any loan from the plaintiff is in the nature of his defence and the same cannot be looked at while deciding an application u/O VII Rule 11 CPC. Thus, in my humble opinion, the present application is liable to be dismissed. It is ordered accordingly.
13. Perusal of file shows that there is another application on record moved by defendant u/O VIII Rule 1 CPC seeking condonation of delay filing of written statement. The same is premised on the ground that defendant was suffering from TB and TBM which led to some delay in filing of written statement. Relevant medical documents have also been filed in support of the same.
14. While hearing the matter at the first call, counsel for plaintiff had submitted that the said application may be allowed subject to cost.
15. Considering the reasons given in the application, in my humble opinion, the delay in filing of written statement should be condoned in this case. Accordingly, the application is allowed and the delay in filing of written statement stands condoned.
16. Written statement is taken on record. Plaintiff is at liberty to file his replication, if any, before NDOH with copy to other side.
17. Parties to also file their affidavits of admission/denial at least 15 days prior to the NDOH.
18. To come up for completion of pleadings, admission/denial and framing of issues on 19.12.2025.

AASHISH GUPTA
DJ-01/NE/KKD/DELHI
11.09.2025