


MHRG170009232025 	COMMERCIAL SUIT NO.03/2025 Hillcrest Hotel and Resorts Pvt. Ltd. Vs. Jumpking International Llp & Ors. CNR NO. MHRG170009232025
--	--

COMMON ORDER BELOW EXH.14 AND 16

1. Vide application Exh.14 defendants have prayed for setting aside the order dated 19/09/2025 passed below Exh.11, by which the application submitted by the defendants seeking time to file written statement was rejected.
2. It is claimed that since the plaintiffs have served the copies of plaint and annexure after 16/08/2025, the period of 120 days to file written statement did not expire and therefore it is necessary to set aside the order passed below Exh.11 dated 19/09/2025.
3. Vide application Exh.16 the defendants have prayed for condonation of delay and leave to file written statement.
4. According to the defendants, at the time of service of suit summons, only the copy of the plaint was served upon them and that since the annexures were missing. The

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Panvel-Raigad.

defendants were unable to ascertain the complete claim of the plaintiff and therefore they could not file written statement. It is claimed that on 16th August 2025 complete plaint with annexures was supplied at the office of advocate for the defendants. However, it was found that the copy of plaint supplied to the defendants was not identical to the original plaint and that there were variance in the cause title and annexures and therefore on 08/10/2025, in reply to the application submitted by the plaintiff for passing no written statement order, the defendants have brought said fact to the notice of this Court.

5. It is claimed that the limitation period for filing written statement is 30 days from the date of service of summons and maximum period of 120 days including extended period at the Court discretion is prescribed for filing of the written statement. Thus, it is claimed that limitation for filing the written statement had commenced on 16th August 2025 and therefore the written statement filed by the defendants on 27/10/2025 is within the period of limitation.
6. According to the defendants, if the written statement is allowed to be filed, in that case the plaintiff would not suffer any prejudice. On the contrary, if the written

statement is not accepted the defendants would suffer grave injustice or irreparable loss. Thus, it is prayed to condone the delay and grant leave to the defendants to file written statement on record.

7. The application has been objected by the plaintiff by filing reply Exh.18. It is claimed that defendants have suppressed material facts from this Court. It is further claimed that when the defendants did not receive the complete plaint and the annexures on 27/06/2025, but till 13/08/2025 the defendants did not bother to bring said fact to the notice of the Court or the plaintiffs. It is claimed that the defendants have admitted that entire plaint and the annexures were served upon the defendants after 16/08/2025. However, defendants played dilatory tactics and thus delay cannot be said to be unintentional. Thus, it is prayed for rejection of the application.
8. Learned advocate for the defendants Mr. Shayan Usmani has relied upon the judgments in the cases of **Vikrant Khanna Vs. Amita Lamba, 2024 SCC OnLine Del 6661** and **Nahar Enterprises Vs. Hyderabad Allwyn Ltd., (2007) 9 Supreme Court Cases 466** to state that the period of limitation for filing written statement is commenced only on the date on which the complete set along with copy of plaint and all the annexures are served upon the

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Panvel-Raigad.

defendants.

9. According to him, since the copies of all the annexures were supplied to the defendants on 20/08/2025. Period of limitation had commenced from 20/08/2025.
10. Upon perusal of the judgment in the case of **Nahar Enterprises** (cited supra) it is crystal clear that it is a duty of the plaintiff to supply copies of the plaint and all the annexures upon the defendants.
11. In this regard learned advocate Mr. H. V. Ganatra for the plaintiffs has submitted that due to the scarcity of adequate space the department of the Court did not accept all the papers and therefore annexures could not be served upon the defendants, while serving the copy of plaint and therefore no sooner the defendants have made demand of the annexures they were supplied to the defendants and therefore according to Mr. Ganatra the defendants cannot be allowed to take benefit of the fact that annexures were not served upon them.
12. Although, there appears to be substance in the contention raised by Mr. Ganatra that for want of space all the annexures could not be attached for supplying the same to the defendants is accepted, however the facts remains that the defendants would be in a position to file written statement, only when they get complete knowledge about

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Pavel-Raigad.

the foundation on which the case of the plaintiff is based. In the light of this, the date on which the documents were supplied to the defendants can be said to be the date on which the period to file written statement, would commence.

13. Admittedly, the copies of annexures were served upon the defendants on 20/08/2025. Therefore it was expected from the defendants to file written statement on or before 19/09/2025, the 30th day, from the date of service of copies of annexures upon them.
14. In this regard upon perusal of the record it is found that the defendants have submitted application on 19/09/2025 since the ground stated in the application was no just or sufficient, this Court was pleased to reject the application.
15. So far as the provision incorporated under the Commercial Court Act is concerned, the period of 30 days is available to the defendants for filing the written statement. If they could not file the written statement within the period of 30 days, in that case it shall be allowed to be filed on such other day, as may be specified by the Court for reasons to be recorded in writing. Thus, it is mandatory on the part of the defendants to show cause and ultimately it is for the court to find out whether there is substance in the contention raised by the defendants and then and then

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Pavel-Raigad.

only the court shall extend the time up to 120 days.

16. In this case since the ground pleaded by the defendants did not appeal to the mind of the Court and it was inadequate for recording reasons as contemplated under Order 8 Rule 1 of the CP Code, this Court had rejected the application.
17. It is to be noted here that in the present application the defendants have tried to make hue and cry by stating that there was variance between the copies of the plaint supplied to them and that the documents were inadequate. Surprisingly, when the application for adjournment seeking time to file written statement was submitted on 19/09/2025 on that day no such ground was projected by the defendants, for best reasons to them.
18. The reason stated by the defendants in the application, can be said to be after thought ground, just to claim setting aside of the order. In my view, such an attitude cannot be expected.
19. Be that as it may, along with application Exh.18 the defendants have placed on record written statement. Upon perusal of the same it is found that they bear rubber stamp impression of Notary advocate Mr. G. V. Mukane. It appears that the same has been attested by the Notary. Learned advocate for the plaintiff has tried to raise doubt

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Pavel-Raigad.

about genuineness of the attestation by the Notary.

20. In fact, whenever written statement is placed before the Court it should be supported by an affidavit. Order VI, Rule 15-A of the Code of Civil Procedure (CPC), inserted by the Commercial Courts Act, 2015, mandates that all pleadings in a commercial dispute must be verified by an affidavit (Statement of Truth). It overrides Rule 15 for commercial cases, requiring specific verification, failure of which prevents relying on the pleading as evidence.
21. It appears from the provisions incorporated under Order VI Rule 15(A) of the CPC that it is not merely a formality. Although, the defendants have tried to pose that the written statement was being filed on 27th October 2025. It is to be noted that today 12th March 2026. The period of around 5 months is elapsed, but till this date the defendants did not appear to file the affidavit or statement of truth or facts for the best reasons known to them. The very conduct of the defendants goes to suggest that they are interested in protracting the trial.
22. So far as the claim made by the defendants for calculating the period of 30 days, is concerned, in fact it can be said that only the period fo 30 days as of right is available for filing the written statement and extension of the period of 90 days is within the discretion of the Court that too can

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Pavel-Raigad.

be extended, only after recording the reasons and for that purpose the defendants have to make out the case.

23. Upon perusal of the grounds pleaded by the defendants for condonation of delay and for seeking permission of this Court to file written statement goes to suggest that same has been made only for the sake of seeking time. The application Exh.14 does not bear signature of the defendants with verification. Furthermore, the application Exh.16 is not supported by affidavit.
24. At this juncture, learned advocate Mr. Shayan Usmani for defendants had made an attempt to submit that application has been attested before the Notary. In my view making statement on oath and the fact that it is attested by Notary, are altogether different things. There cannot be second opinion that an attestation by notary cannot be equated with the affirmation made on oath and therefore it cannot be said that the application has been supported by an affidavit, which is mandatory requirement.
25. In the light of this, I conclude that no case is made out by the defendants either for grant of permission to file written statement or for condonation of delay.
26. Learned advocate Mr. Shayan Usmani for the defendants has submitted that mere fact that the statement of truth is

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Pavel-Raigad.

not attached with the written statement is a curable defect and that can be cured. In support of the submission he has relied upon the judgment in the case of **M/s. Himalayan Flora And Aroma Private Limited Vs. Uttar Pradesh Irrigation Department, CS (COMM) 589/2021**. In this regard I would like to state that the period of more than 5 months is elapsed after the written statement is filed. No reason at all has been shown by the defendants for not filing the affidavit or statement of truth along with the written statement. It is to be noted that along with present application also the defendants did not bother to submit the affidavit or statement of truth. In the light of this the judgment in the case of **M/s. Himalayan Flora And Aroma Private Limited (cited supra)** cannot be pressed into service in favour of the defendant.

27. The conspectus of aforesaid consideration is that the applications Exh.14 and 16 are liable to be rejected. As a consequence thereof I proceed to pass following order;

ORDER

1. Applications Exh.14 and 16 are hereby rejected.

Panvel,
Dated :- 12/03/2026

(Dinesh E. Kothalikar)
District Judge-2, Panvel-Raigad.

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Panvel-Raigad.