

Before : Sachin B. Bhansali
Prothonotary and Senior Master

Date : 23rd January, 2023

FOR DIRECTION :

18. S/218/2022) Ms. Chandni Sabnani, i/b. Arvind F. Manghirmalani,
) Advocate for the Plaintiffs.
)
)
) Mr. A.P. Singh, a/w. Mr. Harsh Kakkar, i/b. A.P. Singh
) and Co., Advocates for the Defendants.
)
) **PC.:** The Ld. Advocate for the Plaintiffs submits that
) Plaintiffs have filed Interim Application for amendment
) of plaint and the same is pending.
)
)
) The Ld. Advocate for the Defendants seeks 3 weeks
) time to file written statement on the ground that
) Defendant, who is affirming on himself and on behalf of
) other Defendants, is traveling to Australia and
) returning to Ahmedabad on 21st February, 2023. The
) Ld. Advocate for the Plaintiffs objected on the ground
) that already on previous date, by way of last chance,
) time was granted to the Defendants to file written
) statement and the extended period prescribed under
) Order VIII Rule of C.P.C., 1908 for filing written
) statement is already over on 21.01.2023. The Ld.
) Advocate for the Plaintiffs further submits that
) Defendants are seeking extension for one and other
) reasons and therefore, submits that extension, as
) sought, may not be granted.
)
)
) No doubt, on previous date, time was granted to the
) Defendants to file written statement, as and by way of
) last chance. From the record, it reveals that in the
) month of October, 2022, writ of summons came to be
) served upon the Defendants and on 21st January, 2023,
) 90 days period as prescribed under Order VIII Rule 1 of

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) C.P.C., 1908 is over. However, in the catena of
) Judgments passed by the Hon'ble Apex Court and this
) Hon'ble Court, it is held that the period as
) contemplated under Order VIII Rule 1 of C.P.C., 1908 is
) directory and not mandatory and on showing sufficient
) ground, the same can be extended and delay caused in
) filing written statement can be condoned. Keeping in
) mind, the principles of law laid down by the Hon'ble
) Apex Court and the various Hon'ble High Courts and
) the reasons put forth by the Defendants for extension of
) time to file written statement, I am of the view that
) further extension, as sought, by the Defendants, needs
) to be granted. However, delay can be compensated by
) saddling cost payable to the Plaintiffs. At this juncture,
) the Ld. Advocate for the Defendants submits that
) minimum amount of cost may be imposed, to which the
) Ld. Advocate for the Plaintiff submits that Plaintiffs left
) the decision to the discretion of this Authority. As this
) Authority inclined to grant three weeks time to the
) Defendants to file Written Statement, cost of Rs.
) 5,000/- can be said to be reasonable.
)
) In view thereof, in the interest of justice, time to file
) written statement is extended by three weeks by way of
) super last chance. Defendants to pay cost of Rs.
) 5,000/- to the Plaintiffs simultaneously.
)
) Stand over to 13.02.2023.

23-01-2023

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