

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE SEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

CIVIL REVISION PETITION No: 3478 of 2024

Petition under Article 227 of the Constitution of India aggrieved by the order dated 03-04-2024 in IA No.152 of 2023 in COS.No.45 of 2022 on the file of the Court of the Additional Commercial Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad.

Between:

1. M/s.Deccan Chronicle Holdings Limited, 36, Sarojnini Devi Road, Secunderabad Represented by its Supervisory Committee, Erstwhile Resolution Professional, Ms.Mamta Binani
2. Ms.Mamta Binani, W/o. Sumit Binani, Erstwhile Resolution Professional, Deccan Chronicle Holdings Ltd., 21, Ganesh Chandra Avenue Commerce House 4th Floor, Room No.6, Kolkatta 700013.

...Petitioners/Defendant No.1 and 2

AND

1. Deccan Chronicle Marketeers, A Partnership Firm (earlier known as Deccan Chronicle)Having its Regd.Office at 147, S.P. Road, Secunderabad 500003

...Respondent/Plaintiff

2. Vision India Fund SREI Multiple Asset Investment Trust, Vishwakarma, 86C, Topsia Road(South), Kolkatta 700046 Rep. by its authorized representative Mr.Avansh Jain
3. Committee of Creditors through Canara Bank, 3-5-879, Old MLA Quarters Road, Narayanaguda, Hyderabad 500029. Rep. by its Authorized Representative
4. IDBI Bank, Rep. by its Authorised Representative WTC Complex, IDBI TOWERS, Cuffe Parade, MUMBAI 400005.

...Respondents/Defendant No's.3 to 5

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased stay all further proceedings in COS No. 45 of 2022 on the file of Additional Commercial Court in the cadre of District Judge for Trial and Disposal of Commercial Disputes, City Civil Courts, Hyderabad, pending disposal of the Appeal.

Counsel for the Petitioners: Mr. Mayur Mundra

Counsel for the Respondents: None Appeared

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CIVIL REVISION PETITION No.3478 of 2024

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Mayur Mundra, learned counsel for the petitioners.

2. Heard on the question of admission.
3. In this civil revision petition under Article 227 of the Constitution of India, the petitioners have assailed the validity of the order dated 03.04.2024 passed by the Additional Commercial Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad (hereinafter referred to as, "the Commercial Court") in I.A.No.152 of 2023 in C.O.S.No.45 of 2022, by which the application filed by the petitioners to set aside the order dated 12.04.2023 forfeiting the right to file the written statement of the petitioners has been rejected, *inter*

alia, on the ground that the Court has no power to take the written statement after expiry of the period of 120 days.

4. Facts giving rise to filing of this civil revision petition briefly stated are that the respondent No.1 filed the suit seeking the relief of permanent injunction restraining the petitioners from using the Trade Marks 'Deccan Chronicle' and 'Andhra Bhoomi'. The summons of the aforesaid suit were admittedly served on the petitioners on 15.12.2022. The petitioners were required to file the written statement on or before 14.03.2023 i.e., within a period of 120 days.

5. After the service of summons, the proceedings in the suit were fixed for 23.12.2022. On the aforesaid date, the petitioners filed a memo that some documents annexed to the plaint have not been supplied to them. The Court had adjourned the proceeding to 24.01.2023. On the said date also, the petitioners filed a similar memo stating that some documents annexed to the plaint have not been supplied to them. The proceedings in the suit were adjourned to 12.04.2023. Since the petitioners had not filed the written statement within the stipulated time of 120 days, the

Commercial Court, by an order dated 12.04.2023, forfeited the right of the petitioners to file the written statement.

6. Thereafter, the petitioners filed an application on 26.04.2023 seeking to set aside the order dated 12.04.2023 forfeiting the right to file the written statement. The aforesaid application has been rejected by the Commercial Court on the ground that the Court has no power to permit filing of the written statement beyond 120 days. Hence, this petition.

7. Learned counsel for the petitioners submitted that since the petitioners were not supplied with the documents, the petitioners were unable to file the written statement. It is, therefore, contended that the impugned order be set aside and the petitioners be permitted to file the written statement.

8. We have considered the submissions made by the learned counsel for the petitioners and have perused the record.

9. The issue involved in this civil revision petition is no longer *res integra* and has been dealt with by the Supreme Court in **Prakash Corporates v. Dee Vee Projects Limited**¹, wherein in paragraph 39.2 it has been held as under:

“39.2. We are constrained to reiterate the unquestionable principles that the rules of procedure are essentially intended to subserve the cause of justice and are not for punishment of the parties in conduct of the proceedings. Of course, in the ordinary circumstances, the mandates of Rule 1(1) of Order 5, Rule 1 of Order 8 as also Rule 10 of Order 8, as applicable to the commercial dispute of a specified value, do operate in the manner that after expiry of 120th day from the date of service of summons, the defendant forfeits the right to submit his written statement and the Court cannot allow the same to be taken on record but, these provisions are intended to provide the consequences in relation to a defendant who omits to perform his part in progress of the suit as envisaged by the rules of procedure and are not intended to override all other provisions of CPC like those of Section 10. These comments are necessitated for the reason that the trial court seems to have simply ignored the requirements of dealing with the pending applications with requisite expedition. We say no more.”

¹ (2022) 5 SCC 112

10. Thus, from the aforesaid enunciation of law, it is evident that the mandate contained in Rule 1(1) of Order V, Rule 1 of Order VIII, as also Rule 10 of Order VIII of CPC as applicable to the commercial dispute of a specified value mandates that the right of the defendant to file the written statement shall stand forfeited in case he fails to do so. In the instant case, the petitioners did not take any steps to file the written statement, except filing memos. The petitioners even have not annexed the copies of the orders passed by the Commercial Court on the memos filed by them.

11. The order passed by the Commercial Court neither suffers from any jurisdictional infirmity nor any error apparent on the face of the record warranting interference of this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

12. In the result, the civil revision petition fails and is hereby dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

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Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

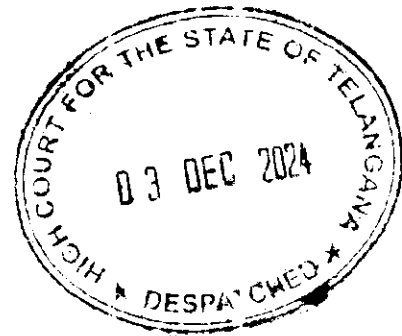
1. The Additional Commercial Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad.
2. One CC to Mr. Mayur Mundra, Advocate [OPUC]
3. Two CD Copies

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HIGH COURT

DATED:07/11/2024



ORDER

CRP.No.3478 of 2024

**DISMISSING THE CIVIL
REVISION PETITION**

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21/11/24*