

अनूप कुमार मेंदीरत्ता
Anoop Kumar Mendiratta



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सचिव
विधि और न्याय मंत्रालय
भारत सरकार
SECRETARY
DEPARTMENT OF LEGAL AFFAIRS
MINISTRY OF LAW & JUSTICE
GOVERNMENT OF INDIA
Dated the 06th August, 2020

DO.No.A-60011(6)/20/2016-Admin(LA)

Subject : Extension of time-limit prescribed under section 12A of the Commercial Courts Act, 2015 – reg.

Dear Registrar General,

You may be aware that, taking note of the situation arising out of the challenge faced by the country on account of Covid-19 pandemic and resultant difficulties that may be faced by litigants across the country, the Hon'ble Supreme Court of India invoking power under Article 142 read with Article 141 of Constitution of India vide order dated 23rd March 2020, extended the period of limitation prescribed under the general law of limitation or under Special Laws in respect of the proceedings referred therein, w.e.f. 15th March, 2020 till further orders in *Suo Motu* Writ Petition (Civil) No(s).3/2020. Thereafter, the Hon'ble Supreme Court vide order dated 6th May 2020 extended all periods of limitation prescribed under the Arbitration and Conciliation Act, 1996 and under section 138 of the Negotiable Instruments Act, 1881 till further orders to be passed by the Supreme Court of India in said proceedings.

2. In this regard, Department of Legal Affairs, Ministry of Law and Justice had *inter-alia* requested the Ld. AG to seek appropriate directions of the Hon'ble Court on the issue of extension of time limit prescribed under section 12A of the Commercial Courts Act, 2015 for the conduct of Pre-institution Mediation and Settlement (PIMS). Consequently, Hon'ble Supreme Court of India vide order dated 10.07.2020 has extended the above time-period (copy enclosed). The Court has directed that ***“the said time shall stand extended from the time when the lockdown is lifted plus 45 days thereafter. That is to say that if the above period, i.e. the period of lockdown plus 45 days has expired, no further period shall be liable to be excluded”***.

3. I am, therefore, to request you to inform the State Legal Services Authority and the District Legal Services Authorities under your jurisdiction regarding the extension of time-limit prescribed for PIMS under section 12A of the Commercial Courts Act, 2015 for necessary action. The same may also be displayed on the website for public awareness.

With warm regards,

Yours sincerely,


(Anoop Kumar Mendiratta)

Encl : As above.

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The Registrar General,
High Court of Kerala
Kochi – 682031
KERALA

ITEM NO.19

Virtual Court 1

SECTION PIL-W

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

SUO MOTO WRIT PETITION (C) NO. 3/2020

IN RE COGNIZANCE FOR EXTENSION OF LIMITATION

Petitioner(s)

VERSUS

Respondent(s)

IA No. 48672/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 48375/2020 - CLARIFICATION/DIRECTION
 IA No. 48461/2020 - CLARIFICATION/DIRECTION
 IA No. 48673/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 48374/2020 - INTERVENTION APPLICATION
 IA No. 48416/2020 - INTERVENTION APPLICATION
 IA No. 48408/2020 - INTERVENTION APPLICATION
 IA No. 48671/2020 - INTERVENTION/IMPLEADMENT)
 ALONG WITH IAS. 48574/2020 49221/2020, 51078,
 51082, 50977, 50985, 55276, 55277, 58914, 58910/2020 AND
 60198/2020

Date : 10-07-2020 These applications were called on
for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE R. SUBHASH REDDY
 HON'BLE MR. JUSTICE A.S. BOPANNA

By Courts Motion, AOR

Counsel for the parties:

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 Mr. Ankur Talwar, Adv.
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 Ms. Madhur Jhavar, Adv.
 Mr. Kartik Lahoti, Adv.
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Mr. Vivek Narayan Sharma, AOR

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Mr. Arvind Kumar Sharma, AOR

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Mr. Arshdeep Singh Khurana, Adv.
Mr. Varun K Chopra, Adv.
Mr. Akshat Gupta, Adv.
Ms. Rajshree Sharma, Adv.
Mr. Gurtejpal Singh, Adv.
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Ms. Binu Tamta, AOR

Mr. V.N. Raghupathy, AOR

Mr. S. Thananjayan, AOR

Mr. Mayank Kshirsagar, AOR

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

Parties have prayed to this Court for extending the time where limitation is to expire during the period when there is a lockdown in view of COVID-19 or the time to perform a particular act is to expire during the lockdown.

I.A. No. 49221/2020 -Section 29A of the Arbitration and Conciliation Act, 1996

Taken on Board.

In Suo Moto Writ Petition (C) No. 3/2020, by our order dated 23.03.2020 and 06.05.2020, we ordered that all periods of limitation prescribed under the Arbitration and Conciliation Act, 1996

shall be extended w.e.f. 15.03.2020 till further orders.

Learned Attorney General has sought a minor modification in the aforesaid orders.

Section 29A of the Arbitration and Conciliation Act, 1996 does not prescribe a period of limitation but fixes a time to do certain acts, i.e. making an arbitral award within a prescribed time. We, accordingly, direct that the aforesaid orders shall also apply for extension of time limit for passing arbitral award under Section 29A of the said Act. Similarly, Section 23(4) of the Arbitration and Conciliation Act, 1996 provides for a time period of 6 months for the completion of the statement of claim and defence. We, accordingly, direct that the aforesaid orders shall also apply for extension of the time limit prescribed under Section 23(4) of the said Act.

The application is disposed of accordingly.

Pre-Institution Mediation and Settlement under Section 12A of the Commercial Courts Act, 2015.

Under Section 12A of the Commercial Courts Act, 2015, time is prescribed for completing the process of compulsory pre-litigation, mediation and settlement. The said time is also liable to be

OP (A767)

extended. We, accordingly, direct that the said time shall stand extended from the time when the lockdown is lifted plus 45 days thereafter. That is to say that if the above period, i.e. the period of lockdown plus 45 days has expired, no further period shall be liable to be excluded.

I.A. No. 48461/2020- Service of all notices, summons and exchange of pleadings

Service of notices, summons and exchange of pleadings/documents, is a requirement of virtually every legal proceeding. Service of notices, summons and pleadings etc. have not been possible during the period of lockdown because this involves visits to post offices, courier companies or physical delivery of notices, summons and pleadings. We, therefore, consider it appropriate to direct that such services of all the above may be effected by e-mail, FAX, commonly used instant messaging services, such as WhatsApp, Telegram, Signal etc. However, if a party intends to effect service by means of said instant messaging services, we direct that in addition thereto, the party must also effect service of the same document/documents by e-mail, simultaneously on the same date.

Extension of validity of Negotiable Instruments Act, 1881-I.A. Nos. 48461 and 48672/2020 (IA. No. 48671/2020, 48673/2020)

I.A. No. 48671/2020 for impleadment is allowed.

With reference to the prayer, that the period of validity of a cheque be extended, we find that the said period has not been prescribed by any Statute but it is a period prescribed by the Reserve Bank of India under Section 35-A of the Banking Regulation Act, 1949. We do not consider it appropriate to interfere with the period prescribed by the Reserve Bank of India, particularly, since the entire banking system functions on the basis of the period so prescribed.

The Reserve Bank of India may in its discretion, alter such period as it thinks fit. Ordered accordingly.

The instant applications are disposed of accordingly.

I.A. Nos. 48374/2020 and 48375/2020

List after six weeks.

[CHARANJEET KAUR]
ASSTT. REGISTRAR-CUM-PS

[INDU KUMARI POKHRIYAL]
ASSTT. REGISTRAR