

Shoraj Singh vs Charan Singh on 8 October, 2021

Bench: Hemant Gupta, V. Ramasubramanian

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6304 OF 2021
(@ SLP(C) No.13129/2018)

SHORAJ SINGH

APPELLANT(S)

VERSUS

CHARAN SINGH

RESPONDENT(S)

O R D E R

Leave granted.

The defendant-appellant is an appeal against an order passed by the High Court of Judicature at Allahabad on 30.01.2018 whereby the written statement filed by the defendant was not permitted to be taken on record as it was filed beyond 90 days fixed under Order 8 Rule 1 of the Code of Civil Procedure, 1908 (in short, the CPC) We find that the High Court has completely misdirected itself not to take written statement on record in view of the judgments of this Court in 'Kailash Vs. Nanhku & Ors.', reported in (2005) 4 SCC 480 and 'Salem Advocate Bar Association, Tamil Nadu Vs. Union of India', reported in (2005) 6 SCC 344 wherein it was held that the period of 90 days for filing of written statement is directory. Reason: It may be stated herein that the provisions of Order 8 Rule of CPC are mandatory in the Commercial Courts under the Commercial Courts Act, 2015.

In view of the said fact, the order passed by the High Court is set aside.

Consequently, the appeal is allowed and the matter is remitted back to the trial Court to decide the suit on merits after taking into consideration the written statement already filed by the defendant-appellant as early as possible.

Pending application(s), if any, also stand disposed of.

.....J. [HEMANT GUPTA]J.
[V. RAMASUBRAMANIAN] NEW DELHI;

8th OCTOBER, 2021

ITEM NO.32 Court 11 (Video Conferencing) SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 13129/2018

(Arising out of impugned final judgment and order dated 30-01-2018 in Matters under Article 227 No. 446/2018 passed by the High Court of Judicature at Allahabad) SHORAJ SINGH Petitioner(s) VERSUS CHARAN SINGH Respondent(s) (IA No. 73267/2018 - EXEMPTION FROM FILING O.T.)
Date : 08-10-2021 This petition were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE HEMANT GUPTA HON'BLE MR. JUSTICE V.
RAMASUBRAMANIAN For Petitioner(s) Mr. Divyesh Prarat Singh, AOR Mr.
Shivangi Singh, Adv.

Mr. Vikram Pratap Singh, Adv.

For Respondent(s) Mr. Alok Kumar Sharma, Adv.

Mr. Naresh Kumar, AOR UPON hearing the counsel the Court made the following O
R D E R Leave granted.

The appeal is allowed in terms of the signed order. Pending application(s), if any, also
stand disposed of.

(SWETA BALODI)
COURT MASTER

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file)