

## 2021 SCeJ 1132

SUPREME COURT OF INDIA

*Before: Justice Hemant Gupta and Justice V. Ramasubramanian, JJ.*

SHORAJ SINGH – Appellant,

*Versus*

CHARAN SINGH – Respondent.

CIVIL APPEAL NO.6304 OF 2021 (@ SLP(C) No.13129/2018) 08.10.2021

**CPC, 1908, Order 8 Rule 1 period of 90 days for filing of written statement is directory - Provisions of Order 8 Rule of CPC are mandatory in the Commercial Courts under the Commercial Courts Act, 2015. #2021 SCeJ 1132**

ORDER

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. 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.

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