

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. _____ OF 2023
(arising out of SLP(C) Nos. 5677-5678 of 2023)

SWIPE INNOVATIONS PTE LTD.

APPELLANT

VERSUS

DRIVE INDIA ENTERPRISE SOLUTIONS LTD. & ANR.

RESPONDENTS

O R D E R

Leave granted.

We are of the opinion that findings recorded in the impugned order dated 13.01.2023, dismissing the application for condonation of delay in filing the written statement is rather technical, in view of the facts of the case.

Pursuant to the order passed by this Court on 11.08.2023, the appellant - Swipe Innovations Pte Ltd. has filed an affidavit in this Court, stating that the written statement was attested/notarized on 11.08.2022.

The application for condonation of delay filed by the appellant, for taking the written statement on record, was within the condonable period of ninety (90) days. The reason given in the application was that one of the directors of the appellant was outside India and the other director's wife had given birth to a child. Looking at the controversy, we feel that the delay in filing the written statement should have been condoned on payment of costs.

Accordingly, we allow the appeals and direct that the written statement, attested/notarized on 08.11.2022, filed by the appellant will be taken on record. Rs.5,00,000/- (rupees five lakhs only) deposited by the appellant will be released to respondent/plaintiff towards payment of costs. The written statement, as attested, will be filed within a period of fifteen days from the date of this order. Advance copy of the written statement has already been furnished to the counsel for the respondents.

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

.....J.
(SANJIV KHANNA)

.....J.
(S.V.N. BHATTI)

NEW DELHI;
OCTOBER 30, 2023.

ITEM NO.60

COURT NO.3

SECTION IX

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

Petition for Special Leave to Appeal (C) Nos. 5677-5678/2023

(Arising out of impugned final judgment and order dated 13-01-2023 in IA(L) No. 34968/2022 in CS No. 120/2022 and 19-01-2023 in IA(L) No. 34968/2022 in COMS Suit No. 120/2022 passed by the High Court of Judicature at Bombay)

SWIPE INNOVATIONS PTE LTD.

Petitioner(s)

VERSUS

DRIVE INDIA ENTERPRISE SOLUTIONS LTD. & ANR.

Respondent(s)

(IA No. 59540/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 130106/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 30-10-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s)

Mr. Sandeep Sudhakar Deshmukh, AOR
Mr. Nishant Sharma, Adv.
Mr. Akshay Subhash Jagtap, Adv.
Mr. Swapnil Anil Walde, Adv.

For Respondent(s)

Mr. Jitender Choudhary, Adv.
Ms. Shilpa Chohan, Adv.
Mr. Rajesh Singh, AOR

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

Leave granted.

The appeals are allowed in terms of the signed order.

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

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

(signed order is placed on the file)