

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 567 OF 2012
IN
SUIT NO. 2536 OF 2008**

Balkishan A. Devidayal .. Plaintiff
Vs.
Bhagwat A. Devidayal & Ors. .. Defendants

Ms.Arya Ambre i/b M/s. L.C.Tolat & Co. for Plaintiff.

Mr.Kunal Waghani i/b Yogesh Adhia for Defendant No.1.

Ms.Karishma Shirke i/b M/s. Gordhandas & Fozdar for Defendant Nos.2 & 3.

Mr.Ravi Gandhi i/b Kanuga & Co. for Defendant No.8/Applicant.

CORAM : K.R.SHRIRAM, J.

DATED : 24TH DECEMBER, 2013

P.C.

1 This Notice of Motion is taken out on behalf of Defendant No.8/Applicant for condonation of delay of 152 days in taking out the Notice of Motion and for setting aside the order dated 26th August 2011 passed by the Prothonotary and Senior Master transferring the Suit against Defendant No.8/Applicant as 'Undefendend Suit'.

2 The counsel appearing for Defendant No.8/Applicant further submits that the written statement was declared on 18th November 2011 and after granting the reliefs sought in the Notice of Motion, the Registry be directed to take the written statement on record.

3 In view of the reasons mentioned in the affidavit in support of the Notice of Motion and in view of the fact that the written statement is already been declared way-back in 2011, no prejudice will be caused to the Plaintiff if the reliefs sought in the Notice of Motion is granted.

4 The Notice of Motion is allowed in terms of prayer clauses (a), (b) and (c).

The Notice of Motion is disposed of accordingly with no order as to costs.

(K.R. SHRIRAM, J.)