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

**NOTICE OF MOTION NO. 639 OF 2009
IN
SUIT NO. 2302 OF 1992**

Azhar Ali Anwar Ali Sambhahrwala ...Plaintiff
Vs.
Municipal Corporation of Gr. Mumbai & Ors. ...Defendants

None for the Plaintiff
Mr. R.Y. Sirsikar for the Defendants / Applicants

**CORAM : MRS. ROSHAN DALVI, J.
DATED : 19TH JANUARY, 2015**

P.C. :

1. The written statement of the defendants was to be filed upon service of the writ of summons. The initial written statement was affirmed on 21st July, 1998. It was forwarded to the plaintiff's Advocate on 29th July, 1998. A praecipe for filing it was also sent to the plaintiff's Advocate. The praecipe has been accepted by the plaintiff's Advocate who endorsed receipt on 29th July, 1998. The initial written statement was, therefore, affirmed without delay. The written statement got misplaced. Hence the notice of motion No.2340 of 2007 was taken out.
2. On 30th January, 2009 that notice of motion was made absolute and the defendant was allowed to file the written

statement subject to payment of costs. Since that written statement was misplaced and not filed within the four weeks time granted another written statement has been affirmed on 10th February, 2009.

3. Advocate for the defendant states that this written statement is verbatim the earlier written statement. He has tendered a photocopy of the earlier written statement. In this notice of motion he has sought leave to file another copy of the first written statement dated 21st July, 1998 or to file the later written statement dated 10th February, 2009.
4. This notice of motion has been served upon the plaintiff's Advocate along with the costs of Rs.1000/- ordered to be paid earlier. The plaintiff's Advocate has accepted receipt of the notice of motion along with the covering letter of the defendants Advocate. The service is shown by the defendants' Advocate to Court.
5. There is no affidavit in reply filed to the above notice of motion.
6. The defendants' defence has been taken since 21st July, 1998. The defendant deserves to be heard on merits. The written statement deserves to be taken on record. The original written statement of the defendant dated 10th February, 2007 is accepted

on record. The copy of the written statement of the defendant dated 21st July 1998 is also accepted on record only because the Advocate for the defendant stated that it is verbatim the same.

7. The defendants' Advocate shall inform the plaintiff's Advocate of this order.
8. Suit is adjourned to 11th February, 2015 for framing issues.
9. Notice of motion is disposed off accordingly.

(ROSHAN DALVI, J.)