

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

**NOTICE OF MOTION NO. 469 OF 2015
IN
SUIT NO. 2309 OF 2007**

M/s. Royal Palms (India) Private Limited .. Applicant

In the matter between :

M/s. Royal Palms (India) Private Limited .. Plaintiff

Vs.

S.V. M Engineers (Private) Limited .. Defendant

Ms. Suvarna Joshi for applicant/plaintiff.

**CORAM : K.R.SHRIRAM, J.
DATED : 9TH OCTOBER, 2015**

P.C.

1 This notice of motion is taken out on behalf of the plaintiff to condone the delay of 255 days in taking out the notice of motion, to recall the order dated 2.07.2014 dismissing the suit and restore the suit to file.

2 The defendant have entered appearance and filed their written statement. The counsel for the plaintiff tendered affidavit of service of one Jayesh Manohar Chindarkar affirmed on 9.10.2015 confirming service upon the defendants. Though served, nobody is present for the defendants.

3 I have considered the explanation given by the plaintiff in the affidavit in support. In the affidavit, it is explained that there were two or three advocates who had handled the matter in the past and the last Advocate Shri Tripathi did not appear and the suit came to be dismissed. The plaintiff has also stated that the present advocate was appointed sometime in November 2014 and the Advocate received all the papers from the earlier advocates only in March 2015 and hence the delay. I accept the explanation given in the affidavit in support and the delay of about 9 months in taking out the notice of motion. Therefore, delay is condoned. The notice of motion, for the reasons mentioned in the affidavit in support, is allowed in terms of prayer clauses (a) and (b). The suit is restored to file.

The notice of motion stands disposed accordingly.

4 As the pleadings in the suit are complete, stand over to 27.10.2015 for framing of issues. The parties, in the meanwhile, to file their respective affidavit of documents and also complete discovery and inspection.

(K.R. SHRIRAM, J.)