

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL JURISDICTION

NOTICE OF MOTION NO.485 OF 2015
IN
SUMMARY SUIT NO.6969 OF 1999

Haria Exports Ltd. .. Applicant/ plaintiffs

In the matter between:

Haria Exports Ltd. .. Plaintiffs

-Versus-

Bank of Tokyo Mitsubishi Ltd. & Ors. .. Defendants

Mr.Jitendra Saraf i/b. Avinash Kango for plaintiffs
Mr.Roop M. Vasudeo for defendants.

CORAM : K.R.SHRIRAM, J.
DATE : 8th July 2015.

P.C.

1] This notice of motion is taken out for condonation of delay in filing the notice of motion and thereafter to have the suit restored which was dismissed by an order dated 23rd June 2015.

2] I have considered the affidavit in support, affidavit in reply and heard the counsel appearing for the plaintiffs and defendants.

3] Though, in para 7 of the affidavit in reply and it was also

emphasised during the arguments by the learned Counsel for defendants, it is stated that whatever is stated in the affidavit in support is contrary to the affidavit dated 19th March 2015 filed by the learned Advocate explaining why he was not present on the date when the suit came to be dismissed, I find no contradiction. In fact what is stated in para 7 of the affidavit in support tallies with what is stated in paragraphs 8 and 9 of the affidavit filed by the Advocate for the plaintiffs.

4] In these circumstances, the delay is condoned and the suit is restored to file. Plaintiffs to pay cost of Rs.5000/- to be paid to Maharashtra Legal Aid Services Authority within two weeks from today. Payment of Cost condition precedent.

5] Suit be listed on 29th July 2015 for framing of issues. In the mean while, parties to file their respective affidavit of documents and also complete discovery and inspection.

(K.R.SHRIRAM, J.)