

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

**NOTICE OF MOTION NO. 976 OF 2014
IN
SUMMARY SUIT NO. 1154 OF 2011**

Amrish Bhuwania

.. Applicant/Deft.No.2

In the matter between :

Indigo Properties LLC

.. Plaintiff

Vs.

1. New Wave Holiday Homes Pvt. Ltd.
& Anr.

.. Defendants

Mr.Viraj V. Kadam for plaintiff.

Mr.Jahan Dastur i/b Sonal Doshi & Co. for defendant nos.2 and 3.

CORAM : K.R.SHRIRAM, J.

DATE : 24TH JULY, 2015

P.C.

1 This notice of motion is for condoning a delay of 122 days in filing written statement on behalf of defendant nos.2 and 3 and taking the written statement on file. In paragraphs 4, 5, 6 and 7, the defendant has explained the reason why there has been a delay in filing the written statement. The summary suit is of the year 2011 and both the summons for judgment have been taken out in 2013. By an order dated 27.01.2014, this Court was pleased to grant unconditional leave to the defendant to defend and directed the written statement to be filed within a period of 8 weeks.

2 The notice of motion to condone the delay has been taken out on or about 23.07.2015.

3 The counsel for the plaintiff strongly opposed the notice of motion. The counsel submitted that the explanations given in the affidavit in support are not enough to condone the delay. In my view, the explanation given in the affidavit in support is quite satisfactory. It is also correct that there were intervening summer holidays of the Court.

4 In the circumstances, the notice of motion is allowed in terms of prayer clause (a). The applicant to pay a sum of Rs.5,000/- each, i.e., total Rs.10,000/- as costs to the plaintiff. The costs to be paid within one week from today by way of cheque drawn in favour of the advocate for the plaintiff.

5 The counsel for the applicant states that the written statements of both defendant nos.2 and 3 are already declared and the same will be filed in the registry during the course of today. The registry to accept the same and take the same on record subject to removal of office objection, if any.

6 The notice of motion stands disposed accordingly.

7 The suit be listed for framing of issues on 10.08.2015. In the meanwhile, the parties to file their respective affidavit of documents and also complete discovery and inspection.

(K.R. SHRIRAM, J.)