

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1594 OF 2015
IN
SUMMARY SUIT NO. 6969 OF 1999

Haria Exports Ltd.

.....Plaintiff

: V/S :

The Bank of Tokyo Mitsubishi
UFJ Ltd & Ors.

.....Defendants

* * * * *

Mr. A.D. Kango, Advocate for the applicant/original plaintiff.

Mr. Roop Vasudeo, Advocate for defendant no.1.

* * * * *

Coram :- Smt. R.P. SondurBaldota, J.

22nd September, 2015.

P.C. :-

- 1). This Notice of Motion is taken out by the plaintiff for condonation of delay of 15 years in applying for extension of time to serve the writ of summons upon defendants no.2 and 3. It is obvious that the application has been taken out in view of the order dated 29th July, 2015 passed in the suit. The relevant portion of the order reads as follows:

“When the summons for judgment was disposed by this court by order dtd. 17th July, 2002, the defendants were granted unconditional leave even

though defendants no.2 and 3 did not file any reply. The court also observed, while granting to defendant no.1 to file written statement within 30 days, plaintiff to take steps to serve defendants no. 2 and 3.

“It is not clear from the records and proceedings whether Defendants no. 2 and 3 have been served or not. The matter being old, the counsel for the plaintiff is also unable to state whether defendants no. 2 and 3 have been served or not. The counsel for the plaintiff states that he will check the records and proceedings to ascertain. At the same time, it is made clear that if defendant no. 2 and 3 have not been served as directed in the order dtd.17th July, 2002, the suit as against defendants no. 2 and 3 will stand dismissed without further reference to the court.”

The plaintiff thereafter caused enquiries to be made with the office of Sheriff of Bombay and learnt that the writ of summons is not served upon defendants no.2 and 3. In that event, in view of the self-operative order dated 29th July, 2015, the suit stands dismissed against defendants no.2 and 3. Resultantly, the Notice of Motion is taken out by the plaintiff for condonation of delay of 15 years in serving the writ of summons upon these defendants is a misconceived application and as such liable to be dismissed.

2. The Notice of Motion is dismissed. The suit is adjourned by 3 weeks.

Rane

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(sr. no.30)

Tuesday,22.9.2015

CERTIFICATE

. Certified to be true and correct copy of the original signed order.