

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****NOTICE OF MOTION NO. 1517 OF 2014****IN****SUIT NO. 1074 OF 2008**

M/s.Adani Enterprises Ltd.

...Applicant / Orig.Deft.1

In the matter between

Maharashtra State Electricity Distribution Co.Ltd.

...Plaintiff.

vs.

M/s.Adani Enterprises Ltd. & Ors.

....Defendants

Mr.Harinder Toor with Nirav Shah, Anuj Jaiswal i/b. Little & Co. for Plaintiff.
Mr.Amit Vyas i/b. Economic Laws Praceice for Defendant No.1.

CORAM : S.C. GUPTE, J.**18 NOVEMBER 2015****P.C. :**

This Notice of Motion seeks extension of time for filing of written statement under Order 8 Rule 1 of the Code of Civil Procedure, 1908. The application is on the footing that the deponent of the affidavit in support of the Notice of Motion, who was originally working with the office of Defendant No.1 at the relevant time, when the suit and the writ of summons were served on Defendant No.1, had ceased to work with Defendant No.1 and was working for a group company of Defendant No.1 between 2010 and 2014. It is submitted that the deponent had originally taken steps calling for fee quotes from practicing Advocates to represent Defendant No.1 in the suit. However, since he ceased to work with Defendant No.1 and since no one was attending to the suit on behalf of Defendant No.1, Defendant No.1 did not keep a track of the suit and the suit was, in the premises, transferred to the list of undefended suits under an order dated 8 July 2014. It is submitted by the deponent that sometime before the filing of the present notice of motion, the deponent came across the case status of the present suit as an undefended suit. Defendant No.1 has, in the premises, sought

condonation of delay and extension of time to file its written statement.

2. The application is opposed by learned Counsel for the Plaintiff. Learned Counsel submits that as held by the Supreme Court in the case of **Sandeep Thaper vs. SME Technologies Pvt.Ltd.**¹, extension of time under Order 8 Rule 1 of the Code of Civil Procedure can be allowed only if circumstances are exceptional and such extension is occasioned by reasons beyond the control of the Defendants and a grave injustice is likely to be occasioned if time is not extended. In the present case, though the averments made in the affidavit in support of the Notice of Motion show lack of diligence on the part of Defendant No.1, there is some explanation nevertheless for not having filed the written statement earlier. There is no serious prejudice to be suffered by the Plaintiff, if the delay is condoned and the time is extended. The Plaintiff can be compensated with costs for the inconvenience caused by the Defendant. It is in the interests of justice that Defendant No.1 deserves to be allowed to defend the suit by filing its written statement.

3. In the premises, the notice of motion is made absolute in terms of prayer clause (a). Defendant No.1 shall file its written statement within a period of two weeks from today. Defendant No.1 shall pay the costs of the notice of motion, which are quantified at Rs.50,000/-, to the Plaintiff.

(S.C. Gupte, J.)

¹ (2014) 2 SCC 302