

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

**CHAMBER SUMMONS NO. 339 OF 2014
IN
EXECUTION APPLICATION NO. 212 OF 2007
IN
SUIT NO. 1877 OF 1980**

M/s. Vardhman Builders .. Applicant/Plaintiff

In the matter between :

M/s. Vardhman Builders .. Plaintiff

Vs.

Mrs.Dorothy Barretts & Orsr. .. Defendants

Mr.Vivek Walawalkar a/w. Mr.Ashrat Diamondwala i/b Diamondwala & Co. for applicant/plaintiff.

Mr.Anthony Joseph Almeida for defendant nos.1(A) to 1(F).

CORAM : K.R.SHRIRAM, J.

DATE : 27TH APRIL, 2016

P.C.

1 This chamber summons is to condone a delay of 2460 days, i.e., a delay in excess of almost 7 years. At the outset, the only explanation I find is that the Advocate on record had instructed the clerk to remove office objections and register the execution application but due to inadvertence the Clerk of the earlier advocate could not remove the office objections and failed to comply with the order dated 12th June 2016. The applicant has, thereafter, tried to explain that various persons who were partners of the

applicant fell ill or were unable to handle.

2 The decree that the applicant has obtained is an ex-parte decree on 21st September 2015. The counsel appearing for the L.Rs. of defendant no.1, Mr.Almeida states that defendant no.1 died on 1.04.2007, defendant no.2 died on 10.01.1991, defendant no.3 died on 19.06.2006 and defendant no.4 died on 15.07.1985. The counsel also states that by a letter dated 9th June 2014 they had brought this to the notice of the advocates for the applicant but no response was received. The office copy of the letter dated 9th June 2014 is taken on record and marked 'X' for identification.

Therefore, it is obvious that the ex-parte decree dated 21th February 2005 has been obtained against atleast 2 dead persons.

3 In the circumstances, I see no reason for this Court to exercise its discretion and condone the delay of almost six years.

4 The chamber summons stands dismissed.

(K.R. SHRIRAM, J.)