

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

**NOTICE OF MOTION NO.1326 OF 2016
IN
SUIT NO.541 OF 2014**

Neptune Housing & Realty Pvt. Ltd.Plaintiffs

V/s.

Asset Reconstruction Company (India) Ltd.Defendants

Mr.Akshay Patil i/by Mayur Thorat for plaintiffs.

Senior Counsel Ms.Rajani Iyer, Mr.Phiroz Colabawalla, Mr.Rohit Gupta, Mr.Devyash Chaurasia and Mr.Krupa Mehta i/by Manilal Kher Ambalal & Co.Mr. for the applicants/defendants.

**CORAM : K.R.SHRIRAM,J
DATE : 17.11.2016**

P.C.:-

1 This Notice of Motion is taken out by the defendants for condonation of delay of 387 days in filing the written statement and to recall an order dated 1.4.2015 passed by the Prothonotary & Senior Master, transferring the suit to the list of undefended suit.

2 The counsel for the plaintiffs strongly opposed this Notice of Motion and submits that after this order was passed, the plaintiffs have, pursuant to the directions passed by this court, even filed affidavit of evidence and compilation of documents.

3 Be that as it may, this is a suit of the year 2014 and the delay is only of 387 days. We have matters where written statements

have not been filed for years together and the Courts are still being considerate to the defendants who have appeared and expressed regret and prayed for condonation of delay. Of course, such defendants have been put to terms. In the present case also, I see no reason why the delay should not be condoned particularly in view of the averments contained in the affidavit in support.

4 Notice of Motion is allowed in terms of prayer clauses-(a) & (b). Defendants to pay sum of Rs.1 lakh as cost to National Association of Blinds and the same to be paid within four weeks from today. The counsel for the defendants states that written statement is ready and will be filed in the registry and a copy thereof also will be served upon the plaintiffs' advocate by tomorrow. Registry to accept the written statement and take the same on record subject to removal of office objections.

5 Since the defendants have been permitted to file written statement, Mr.Patil for the plaintiffs seeks leave to withdraw the affidavit of evidence filed and also the compilation of documents. Leave granted. Registry to return the affidavit of evidence as well as compilation of documents. Suit be listed for directions before the Court that has assignment since this is a suit of even year.

(K.R.SHRIRAM,J)