

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

**NOTICE OF MOTION NO.1721 OF 2016
IN
SUIT NO.624 OF 2014**

Rajnikant V. Shah & Anr.Applicants

In the matter between :

Subhash Winayak Karnataki & Ors.Plaintiffs

V/s.

Rajnikant V. Shah & Anr.Defendants

Mr. H. Khokhawala i/b. Nankani Associates for the plaintiffs.

Mr. Archit Jayakar i/b. Jayakar & Partners for the applicants/
defendants.

CORAM : K.R.SHRIRAM,J

DATE : 11th AUGUST, 2016

P.C.:-

1 At the outset, the counsel for the applicants seeks leave to amend the cause title. Leave granted. The amendment to be carried out forthwith.

2 This notice of motion is for setting aside the order dated 11th December, 2015 passed by the Prothonotary and Senior Master directing the suit to be transferred to the list of undefended suits.

3 Have considered the affidavit in support of the notice of motion. The counsel for the plaintiffs strongly opposes the notice of motion and also tenders his affidavit in reply stating that on

11th December, 2015 when the order was passed nobody even appeared for the defendants and there is no sufficient explanation as to why the motion itself was taken out after a delay of four months.

4 The suit itself is of the year 2014 and we have suits pending for years together in this court. No prejudice will be caused if the delay is condoned and the written statement is taken on record ofcourse the applicants should be put to terms. The applicants to pay a sum of Rs.10,000/- as cost to the advocate on record for the plaintiffs by tomorrow, i.e., 12th August, 2016.

5 The counsel for the applicants states that the written statement is ready and undertakes to declare the same by tomorrow, i.e., 12th August, 2016 and have it filed in the registry.

6 In view of this undertaking and subject to the applicants' paying a sum of Rs.10,000/- as cost, the notice of motion is allowed and accordingly disposed of in terms of prayer clause – (a).

7 On or before 26th August, 2016 parties to file their respective affidavit of documents. On or before 3rd September, 2016 parties to complete discovery and inspection and by 8th September, 2016 parties to file and exchange their statement of admission and

denial with reasons for denial.

8 The suit be listed for issues on 19th September, 2016.

9 The notice of motion no.1336 of 2014 be listed for hearing
on 8th September, 2016.

(K.R.SHRIRAM,J)