

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

**NOTICE OF MOTION NO.525 OF 2016  
IN  
SUIT NO.460 OF 2014**

|                                                                     |     |            |
|---------------------------------------------------------------------|-----|------------|
| M/s. Heritage Lifestyles and Developers Ltd.                        | ... | Plaintiff  |
| versus                                                              |     |            |
| M/s. Sahakar Nagar Cool Freeze Co-op.<br>Housing Soc. Ltd. and Ors. | ... | Defendants |
| and                                                                 |     |            |
| M/s. Sahakar Nagar Cool Freeze Co-op.<br>Housing Soc. Ltd. and Ors. | ... | Applicants |

Mr. Mani Thevar i/by M/s. Mahesh Menon and Co., for Plaintiff.  
Mr. Ashwin Shete with Ms. Ketki Gadkari i/by M/s. Jayakar and Partners, for Defendant Nos.2 to 9 and 11 to 33.  
Mr. Omkar Kulkarni, for Defendant No.35.  
Ms. Prerna R. Lalchandani, for Defendant No.36.

**CORAM: S.J. KATHAWALLA, J.**

**DATE: 8<sup>th</sup> JUNE, 2016**

**P.C.:**

1. By the above Notice of Motion, the Applicants / Defendant Nos. 1 to 9 and 11 to 33 are seeking the following reliefs :

*“(a) that the order dated 20<sup>th</sup> January, 2015 passed by the learned Prothonotary and Senior Master directing the Suit to be proceeded ex-parte against the Defendant Nos. 1 to 33 be set aside.*

*(b) that the Written Statement of the Defendant Nos. 1 to 33 be taken on record.*

*(c) That the delay of 300 days in moving the present Notice of Motion may*

*kindly be condoned.*

*(d) That pending the hearing and final disposal of the Notice of Motion, the present proceedings in the Suit may be stayed.”*

2. Perused the Notice of Motion and the Affidavit in support thereto. The Notice of Motion is served on the Plaintiff as well as the Defendants. The Plaintiff has not filed their Affidavit in Reply to the Notice of Motion. For reasons set out in the Affidavit in support of the Notice of Motion, the Notice of Motion is allowed and the delay in filing the above Notice of Motion is condoned. The order passed by the Prothonotary and Senior Master dated 20-01-2015 is set aside against Applicants i.e. Defendant Nos.1 to 9 and 11 to 33. The Written Statement of Defendant Nos.1 to 9 and 11 to 33 are taken on record.

3. The Notice of Motion is accordingly disposed of.

**( S.J.KATHAWALLA, J. )**