

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

APPLICATION No.5556 of 2016

IN C.S.No.644 of 2011

P.Vaikuntam

...Applicant

-vs

1. Nivaran Herbal Pvt.Ltd
No.23, Dr.Ambedkar Salai
Kodambakkam, Chennai 600 024

2. Sujatha Bio Tech
No.23, Dr.Ambedkar Salai,
Kodambakkam, Chennai 600 024

... Respondents

Application filed praying to condone the delay of 1554 days in filing the written statement.

For Applicant :Mr.R.Parthasarathy

For respondents : Mr.R.Sathishkumar

O R D E R

The above application is filed by the applicant / defendant to condone the delay of 1554 days in filing written statement.

2. The suit is for Trade Mark and Copyright.

3. It is stated in the affidavit filed in support of the application that the summons in the present suit was served on 18.01.2014 and that upon receipt of the same, the applicant / defendant was involved in the process of collecting relevant documents and thereafter contacted his Counsel for the purpose of preparing the written statement. It is also further stated that the settlement talks were going on between the parties since 2014 and subsequent to the failure of the same, there was a delay of 1554 days in filing the written statement.

4. At this juncture, it is relevant to note that the Honourable Supreme Court has reiterated that a liberal pragmatic and

justice oriented approach should be given in dealing with the application for condonation of delay. It is the substantial justice which is paramount and pivotal that the technical considerations should not be given unnecessary emphasis. Of course, lack of *bona fides* imputable to a party seeking condonation of delay is relevant and significant fact.

5. This Court, having satisfied with the reasons stated in the affidavit filed in support of this application, is inclined to condone the delay, but however on condition.

6. Accordingly, the delay is condoned and the application is ordered, on payment of Rs.3,000/- (Rupees three Thousand Only) to the Advocate Clerks Association, within a period of two weeks from the date of receipt of a copy of this order.

7. Post the matter after two weeks 'for compliance'

18.11.2016

srn

PUSHPA SATHYANARAYANA, J.

srn

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