

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

NOTICE OF MOTION NO.1507 OF 2017
IN
SUIT NO.284 OF 2014

New Delhi Television Ltd.

..Plaintiff

-Versus-

Quantum Securities Pvt. Ltd. & Ors.

..Defendants

Mr. Shantanu Singh with Lokesh Aidasani i/b. DMD Advocates for
petitioners

Mr. Dinkar Singh with Jaymala Raut for defendants.- applicants.

CORAM : K.K.TATED, J.

DATE : 20th November 2017.

P.C.

1] Heard learned Counsel for parties.

2] This chamber summons is preferred by the defendants for
condonation of delay in filing written statement as well as affidavit in
reply to the additional affidavit in reply to the amended notice of
motion.

3] Learned Counsel for applicants – original defendants submits

that in the present proceedings, the plaintiffs carried out amendments in suit on 20th June 2017 as per the order dated 12th June 2017 in Chamber Summons No.1485 of 2015. He submits that, this Court (K.R.Shriram, J) by order dated 27th July 2017 allowed the defendants to file written statement to the amended copy of plaint within two weeks from the date of service. He submits that thereafter, the matter was on board before this Court. That time also this Court extended time to file written statement. He submits that because of mistake on the part of Advocate it remained to take appropriate steps to file written statements as well as additional affidavit in reply.

4] In support of this contention, the learned Counsel Mr.Dinkar Singh appearing for applicant relies upon paragraphs 5 to 8 of affidavit in support of the notice of motion. He submits that the defendants have good chance of success in the present proceedings. Hence, in the interest of justice, this Court be pleased to allow the present notice of motion and condone the delay in filing W.S. and additional affidavit in reply. He submits that if the present notice of motion is not allowed grave and irreparable loss will be

caused to the applicants.

5] On the other hand, the learned Counsel Mr. Shantanu Singh appearing for plaintiffs opposes the notice of motion vehemently. Learned Counsel for the plaintiffs submits that as per Order VIII Rule 1 of the Code of Civil Procedure, 1908 the defendant has to file W.S. within 30 days from the date of service of writ of summons on him. He further submits that though this court from time to time granted extension for filing W.S. the defendants failed and neglected to file the same within the extended time also. Therefore, there is no question of allowing the present motion.

6] I have heard both sides. It is to be noted that by this notice of motion, the applicant defendant is seeking condonation of delay of about 23 days in filing W.S. and 27 days in filing reply affidavit to the amended motion. Though the plaint was lodged in the Registry of this Court on 3rd August 2013, the same was amended thereafter on 20th June 2017 and, thereafter, amended copy of plaint was served on the defendants. Considering the reasons disclosed by the applicants in affidavit in support of notice of motion and because of

mistake on the part of Advocate the litigant should not suffer, and since the learned Advocate for defendants was not keeping well, I am of the opinion that the applicant has made out a case for allowing the notice of motion with payment of cost of Rs.25,000/-. Cost to be paid to plaintiffs or their Advocates within two weeks from today, failing which the notice of motion shall stand dismissed without reference back to court. Hence, following order:-

- (i) Delay in filing W.S. as well as reply to the additional affidavit in reply to the amended notice of motion is condoned;
- (ii) Applicants – defendants to file W.S. as well as reply to the amended notice of motion with a copy to other side within one week from the date of uploading of this order;
- (iii) Applicant/ defendants to pay cost of Rs.25,000/- to the plaintiffs or their Advocate within three weeks from today and submit the receipt to that effect in the Registry, failing which the notice of motion shall stand dismissed without further reference to the court.
- (iv) Parties to act on an authenticated copy of this order.

(K.K.TATED, J.)