

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

**SUIT NO.1295 OF 1994
WITH
NOTICE OF MOTION NO.1395 OF 2014**

Ruchi Finance Limited & Anr.Applicants

IN THE MATTER BETWEEN :

Killick Nixon Ltd. & Anr.Plaintiffs

V/s.

Forbes & Company Ltd. & Ors.Defendants

Mr.Sahil Saiyed i/by M/s.Wadia Ghandy and Co. for plaintiffs.

Ms.Heena Daulat i/by Chitnis & Co. for defendant no.1.

Mr.Firdosh Pooniwala a/w Mr.Ravi Gandhi and Mr.Rasmin Jain i/by Kanga & Co. for defendant nos.2 & 3 and for applicants in Notice of Motion No.1395/2014.

CORAM : K.R.SHRIRAM,J

DATE : 6.6.2017

P.C.:-

1 By consent, Notice of Motion No.1395 of 2014 is taken up for hearing.

2 This Notice of Motion is taken out on behalf of defendant nos.2 & 3 for condoning the delay of 5688 days in filing the written statement.

3 Heard the counsel and perused the affidavit in support. In

paragraph nos.8, 9 & 10 the applicants have tried to make out a case explaining the delay. I find there are no specific dates or details given. Nevertheless the suit has been pending for so many years and it came up for directions in February-2014 for the first time after 5.2.1999. This Notice of Motion has been lodged on 11.11.2014. Thereafter the suit was not taken up for hearing nor the Notice of Motion got listed. The written statement also has been declared on 23.4.2014.

4 Considering over all situation, I am inclined to condone the delay and take the written statement on record. There has been directions passed directing the applicants to file the written statement. Those directions have not been complied with. Therefore, each of the applicants to pay sum of Rs.1,00,000/- each to Mumbai Police Welfare Fund. This amount to be paid within two weeks.

Accordingly, Notice of Motion stands disposed.

5 Registry to accept the written statement and take the same on record subject to removal of office objections. If the amount as mentioned is not paid within the time stipulated, the written statement will not be taken on record and no extension for payment to be granted.

6 Suit be listed for issues on 27.6.2017 on which date parties to come with draft issues and a separate list of issues on which they are unable to agree.

(K.R.SHRIRAM,J)