

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

NOTICE OF MOTION NO. 1425 OF 2017

IN

L.C. SUIT NO. 3994 OF 1995

M/s.Soni & Associates

...Applicant/Deft.No.4

In the matter between

Sushila Shivram Patil & Ors.

...Plaintiffs

Vs.

Govind Sukur Bhandari & Ors.s

...Defendants

Ms.Ekta V. Pednekar I/b. Sachin V. Masurkar for Plaintiffs.

Mr.Rajesh Kachare I/b. Ameet Palkar for Defendant No.4/Applicant.

CORAM : S.C. GUPTE, J.

DATE : 12 FEBRUARY 2018

P.C. :

Heard learned Counsel for the parties.

2 This notice of motion is taken out by original Defendant No.4. The notice of motion seeks recall of an order passed by this court on 8 March 2016. By this order, this court observed that the evidence of the Defendants shall be treated as closed and that the Plaintiffs shall tender their evidence. Originally, issues were framed in this suit on 14 January 2016. On 16 February 2016, this court directed the Defendants to file their evidence on or before 29 February 2016. The Defendants could not file their evidence by that date. The reasons for not being able to do so have been explained in the affidavit in support of the notice of motion. On 8

March 2016, the order of closure of evidence was passed.

3 Learned Counsel for the Plaintiffs opposes the notice of motion.

4 This court is of the view that Defendant No.4 has made out a reasonable excuse for not being able to file its evidence by the date stipulated by the court. The notice of motion is, accordingly, allowed in terms of prayer clauses (a), (b) and (c). Affidavit of evidence to be filed by Defendant No.4 within four weeks from today. It is made clear that no further accommodation would be granted to the Defendant for this purpose.

5 The notice of motion is disposed of.

(S.C. GUPTE, J.)