

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

CHAMBER ORDER NO.101 OF 2019

IN

SUIT NO.901 OF 2014

Murtaza R.Rajkotwala and Anr.)....Applicants

IN THE MATTER BETWEEN :

Marathon Era Co-operative Housing Society Ltd.)....Plaintiff

V/s.

Marathon Next Gen Realty Ltd. & Ors.)....Defendants

CHAMBER ORDER NO.107 OF 2019

IN

SUIT NO.900 OF 2014

Narayan Sheth & Ors.)....Applicants

IN THE MATTER BETWEEN :

Marathon Era Co-operative Housing Society Ltd.)....Plaintiff

V/s.

Marathon Next Gen Realty Ltd. & Ors.)....Defendants

Mr.C.S.Balsara a/w Mr.H.N.Vakil and Ms.Suzan Vakil I/by M/s.Mulla and Mulla and Craigie Blunt and Caroe for plaintiff.

Mr.Karl Tamboly a/w Mr.Raghav Gupta, Ms.Kashish Mainkar and Ms.Jyoti Pardeshi I/by Wadia Ghandy and Co. for defendant no.1.

Mr.Prathamesh Kamat a/w Ms.Debashree Kamat I/by Ganesh and Co.for defendant nos.2 & 3 in CHOL 101/2019 and for defendant nos.2 to 4 in CHOL 107/2019.

CORAM : K.R.SHRIRAM,J

DATE : 1.3.2019

P.C.:-

1. Mr.Kamat appearing for the applicants states the written statement is ready and was affirmed on 17.1.2019. Mr.Kamat states, in the interest of justice, written statement to be taken on record and order transferring the suit in the list of undefended suit, to be recalled.

2. Mr.Balsara for plaintiff at the outset, strongly opposed the condonation of delay and submitted that writ of summons was served way back in 2014. This being a regular suit, and not a commercial suit, where suits have been pending for years together, I am inclined to condone the delay and direct the registry to take the written statement on record.

3. Certainly, parties have to be put to terms because writ of summons clearly states defence has to be filed within 12 weeks.

4. In the circumstances, applicants are directed to pay sum of Rs.25,000/- each as donation to Free Ophthalmic Hospitals Society, S.B.Account No.011710005364, IFSC Code : BKDN0450117, Dena Bank, Parel, Mumbai-400 012. This amount to be paid within two weeks from today and the proof of payment to be forwarded to

plaintiffs' advocate.

5. Mr.Tamboly for defendant no.1 states that there is no application taken out by defendant no.1 but states that within one week from today, defendant no.1 will also file the written statement and the Court may put defendant no.1 such terms as the Court may deem fit.

6. In the interest of justice, I am granting leave to defendant no.1 to file written statement and serve a copy thereof upon plaintiff and other defendants on or before 8.3.2019. Defendant no.1 shall also give donation of Rs.1,00,000/- to Free Ophthalmic Hospitals Society, S.B.Account No.011710005364, IFSC Code : BKDN0450117, Dena Bank, Parel, Mumbai-400 012. This amount to be paid before 8.3.2019. Registry to take the written statement of defendant no.1 on record provided the same is filed in the registry on or before 8.3.2019 and proof of payment of this donation to be annexed to the forwarding letter. Proof of payment shall also be forwarded to plaintiff's advocate with the copy of the written statement.

7. Suit be listed before the appropriate Court in due course.

(K.R.SHRIRAM,J)