

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

**NOTICE OF MOTION NO. 920 OF 2018
IN
SUIT NO. 215 OF 2013**

Nikunj Enterprises and ors.Applicants

In the matter between :-

Bhupendra Jethmal Kakka and ors.Plaintiffs

V/s.

Nikunj Enterprises and ors.Defendants

Mr. Nikhil Wable a/w. Ms. Radhika Nair i/b. Jaykar and Partners
for the plaintiffs.

Mr. Hitesh Dabhi for defendant nos.1 to 3.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 02nd APRIL, 2019.**

P.C.:

. Heard Mr. Nikhil Wable, learned counsel for the plaintiffs and
Mr. Hitesh Dabhi, learned counsel for defendant nos.1 to 3.

2. By this Notice of Motion, the plaintiffs / original defendant nos.1
to 3 have sought condonation of delay of 550 days in filing the notice
of motion and seeking recall of the order dated 14/10/2016.

3. By order dated 14/10/2016, the Prothonotary and Senior Master
observed that on 16/09/2016, conditional order was passed directing
the applicants herein to file their written statement. Since the written

statement was not filed, the suit against the defendant no.1 to 3 and 5 was transferred to the list of Undefended Suits.

4. The learned counsel for the applicants states that though the written statement in both the suits were ready, they filed their written statement only in the companion suit being Suit No.255/2013.

5. Considering the aforesaid statement so also the reasons stated in paragraph 11 and 12 of the affidavit in support of the Notice of Motion, delay is condoned. The order dated 14/10/2016 is recalled, subject to payment of costs of Rs.10,000 (Rupees Ten Thousand only) to be paid to the High Court Legal Services Authority. Defendant nos.1 to 3 are permitted to file their written statement in the registry within a period of three weeks with copy to the plaintiffs.

6. Notice of Motion stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)