

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

**NOTICE OF MOTION NO.1338 OF 2019**

**WITH**

**NOTICE OF MOTION (L) NO.1414 OF 2019**

**IN**

**COMMERCIAL SUIT NO.220 OF 2019**

Asset Reconstruction Company (India)       )  
Limited and Ors.                                       )....Applicant

**IN THE MATTER BETWEEN :**

Wonder Precious Stone Trading Pvt. Ltd.    )....Plaintiff  
V/s.

Asset Reconstruction Company (India)       )  
Limited and Ors.                                       )....Defendant

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Mr.Karl Tamboly a/w Ms.Varada Balachandran I/by Wadia Ghandy and Co. for plaintiff.

Mr.Rohan Cama a/w Ms.Vinamra Kopariha I/by Cyril Amarchand Mangaldas for defendant no.1 and applicant in NMCD 1338/2019.

Mr.R.S.Kohil a/w Ms.Preeti Limbachiya I/by C.K.Legal for defendant nos.3 to 7 and for applicant in NMCDL 1414/2019.

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**CORAM : K.R.SHRIRAM,J**

**DATE : 25.6.2019**

**P.C.:-**

1. Heard Mr.Cama for applicant and also considered the affidavit-in-support. Mr.Tamboly for plaintiff states that if Court is inclined to condone the delay, then certainly applicant should be put to terms. Mr.Tamboly states that had applicant filed the written

statement within 30 days, question of plaintiff having to appear in this Court for the hearing of Notice of Motion would not have arisen. Mr.Tamboly is not unjustified in making this submission. At the same time, having considered affidavit-in-support and after hearing Mr.Cama, I am inclined to allow Notice of Motion.

2 Notice of Motion allowed in terms of prayer clause-(a). Applicant to give sum of Rs.25,000/- as costs and this amount shall be paid by way of cheque drawn in favour of advocate on record for plaintiff within two weeks from today. Registry to take the written statement on record.

#### **GENERAL**

3. Mr.Tamboly states that defendant no2 has been served with writ of summons and more than 30 days have passed since the service of the writ of summons and defendant no.2 has even entered appearance. Therefore, suit against defendant no.2 to proceed as undefended suit.

4. Inspection of documents to be given by all parties to the other by 12.7.2019. If inspection is not given, such party will not be permitted to rely upon such documents.

Statement of admission and denial with reasons for denial to be exchanged by 20.7.2019. If the statement of admission and denial is not given, parties shall be deemed to have admitted the existence of all the documents of the other side.

5. Suit be listed for framing of issues on 29.7.2019 on which date parties shall come with agreed draft issues and a separate list of issues on which they are unable to agree. On the next date, if parties do not come with draft issues, they are put to notice that parties will be put to terms.

**(K.R.SHRIRAM,J)**