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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

**NOTICE OF MOTION NO. 1204 OF 2018
IN
SUIT NO. 92 OF 2012**

Chhabildas Dalichand Bhayani ...Applicant/Plaintiff
VS
Municipal Corporation of Greater Mumbai & Ors. ...Defendants

.....
Ms Sayli Apte I/b Mr P.G.Lad for the Applicant/Plaintiff.
Mr Rahul R. Singh for Defendant Nos.2 & 4.

Dhanappa
I. Koshti

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Dhanappa I. Koshti
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**CORAM : B. P. COLABAWALLA, J.
JULY 03, 2019.**

P.C. :

This Notice of Motion has been filed seeking to set aside the order dated 3rd May, 2017 dismissing the suit against defendant Nos.3(a) to 3(c) as per Original Side Rule 87.

2 The learned advocate appearing on behalf of the applicant (original plaintiff) states that this Notice of Motion has been duly served on all the defendants and undertakes to file an affidavit of service within a period of one week from today. The said statement is accepted. Defendant Nos.2 and 4 are represented by an advocate. However, for defendant Nos.3(a) to 3(c) none appears.

3 Considering the averments in the affidavit-in-support, the Notice of Motion is allowed in terms of prayer clauses (a) and (b) which read thus-

- “(a) That the Order dated 3rd May, 2017 dismissing the suit against the Defendant Nos. 3(a) to 3(c) as per Original Side Rule 87 be set aside and the plaintiff be permitted to effect the service of Writ of Summons on the defendant No.3(b);
- (b) That the delay if any in taking out this application be condoned.”

4 The Notice of Motion is accordingly disposed of. No order as to costs.

(B.P.COLABAWALLA, J.)