

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2045 OF 2016

IN

SUIT NO. 1468 OF 2002

Yaturi Constructions Ltd

...Plaintiff

Versus

Maharashtra State Road Transport Corporation &
Anr

...Defendants

Mr Asit K Singh, *for the Applicant/Plaintiff.*

Mr VC Ghosalkar, *for Defendant No. 1.*

Mr Manish Upadhyay, *AGP for Defendant No. 2-State.*

CORAM: G.S. PATEL, J

DATED: 14th January 2019

PC:-

1. This Notice of Motion is thoroughly dishonest. I notice that the Plaintiff continues to take liberties with this court. The suit itself was dismissed for non-prosecution on 15th November 2014. Before that it appeared on board on 12th November 2014. As none were present, it was stood over to 15th November 2014 for dismissal and since the Plaintiff was unrepresented on that date, the suit was dismissed. The Plaintiff then filed Notice of Motion No. 934 of 2015 in which it made contradictory statements, viz., that the matter did not reach on 12th November 2014, and then that the matter was not even listed. On this being pointed out, on 9th October 2015 the Plaintiff sought to withdraw the Notice of Motion and sought liberty

from KR Shriram J to file a fresh Notice of Motion. This was granted.

2. The present Notice of Motion was filed only in July 2016, and even this delay between 9th October 2015 and July 2016 is wholly unexplained. Actually, the delay is from 15th November 2014 to July 2016 and there is not even an attempt to explain this inordinate delay. The Plaintiff is a corporate entity and cannot claim to be ignorant of its obligations to obey orders of this court.

3. The directions at the time of framing issues were clear. The Plaintiff had an opportunity till 24th October 2014 to file a list of witnesses, an Evidence Affidavit, an Affidavit of Documents and a Compilation of Documents. Even today, 14th January 2019, five years after that deadline, the Plaintiffs has done nothing. It only seeks yet further time to comply with the five year old directions, and the excuse I am given is that the Plaintiff is in Hyderabad. This has nothing at all to do with the geography. Had the Plaintiff cared to show even minimal diligence and kept ready its affidavits and documents, I might have considered granting some relief, possibly on terms. But when, after five years of total disobedience of Shriram J's directions, it only seeks even further adjournments and time to comply, no indulgence can be shown. To do so would be to encourage persistent disobedience of orders of this Court.

4. The Notice of Motion is dismissed.

(G. S. PATEL, J)