

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1660 OF 2017
IN
SUIT NO.827 OF 1978**

Mahila G.U.L. Papad & Co.	...Plaintiff/Applicant
Vs.	
Pushpa Berry & Ors	..Defendants

Mr. Sugandh Deshmukh for Plaintiff/Applicant
Mr. Aditya Sanghvi I/b Mr. Munir Merchant for Defendant No.1

**CORAM : K.R.SHRIRAM, J.
DATE : 18th JUNE 2019**

P.C.:

1 This is a notice of motion for restoration of the suit that came to be dismissed for default by an order dated 14th July 2017. Mr. Sanghvi for defendant no.1 states that he was served this notice of motion only last week and seeks two weeks time to file an affidavit in reply.

2 Mr. Deshmukh states that the notice of motion could not be served earlier because advocate on record for defendant no.1 Mr. Munir Merchant had changed the address and had not informed plaintiff about the change in address. Mr. Deshmukh states that after the cause list was released last weekend, he searched on Google for Mr. Munir Merchant and found his email address and the new postal address and served it. Mr. Deshmukh states that since it is a matter purely between the court and

plaintiff, the court should allow the application and not grant time to file any reply. The explanation for absence on 14th July 2017 can be found in paragraphs 14 to 22 of the affidavit in support. For the reasons mentioned therein, I am inclined to allow the application or else grave prejudice will be caused to plaintiff.

3 Notice of motion accordingly allowed in terms of prayer clause (a).

4 Notice of motion accordingly stands disposed.

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5 Mr. Deshmukh states that defendant nos.2 to 6 have been served the writ of summons. If, within two weeks, plaintiff does not file the affidavit proving service of the writ of summons on defendant nos.2 to 6, the suit will stand dismissed as against defendant nos.2 to 6 without further reference to this court.

6 Suit be listed for directions on 5th July 2019.

(K.R. SHRIRAM, J.)