

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

IN ITS COMMERCIAL DIVISION

CHAMBER SUMMONS NO. 715 OF 2019
IN
SUMMONS FOR JUDGMENT NO. 24 OF 2019
IN
COMMERCIAL SUMMARY SUIT NO. 482 OF 2019

Aban Offshore Limited .. Applicant

In the matter between :

Bank of Baroda .. Plaintiff

Vs.

Aban Offshore Limited .. Defendant

Mr.Prakash Shinde for plaintiff.

Adv.Kayomars Kerawala i/b Vesta Legal Advocates for
defendant/applicant.

CORAM : N.J. JAMADAR, J.
DATE : 10th JANUARY 2020

P.C.

1. Heard the learned counsels for the parties.
2. The chamber summons is taken out by the defendant seeking condonation of delay, stated to be of one day, in filing an affidavit in reply seeking leave to defendant the commercial summary suit.
3. The summons for judgment taken out by the plaintiff was served on the defendant on 31st May 2019. The defendant claimed that the

affidavit in reply seeking leave to defend, which came to be prepared on 10th June 2019, has been affirmed by the defendant No.1's authorized representative at Chennai on 10th June 2019 itself. However, it was received at Mumbai on 11th June 2019 by courier, and an effort was made on the very day to move an application before the Prothonotary and Senior Master to take the affidavit in reply on record. Since the affidavit in reply was not accepted by the office, the matter was mentioned before the Court on 12th June 2019 and, thereafter, this chamber summons was taken out.

4. The plaintiff has filed an affidavit in reply in opposition to the prayer of condonation of delay. The substance of the resistance is that the defendant has failed to make out a sufficient cause for condonation of delay.

5. The learned counsel for the plaintiff made an endeavor to draw home the point that the defendant has not been able to demonstrate the cause, which can be termed sufficient; no matter the delay may be of one day.

6. It is trite that an application for condonation of delay receives

liberal consideration. The term ‘sufficient cause’ cannot be construed, in such a manner as would not account for some indolence or inadvertence on the part of the person who seeks condonation of delay. In the facts of the instant case, where the defendant has succeeded in demonstrating that an earnest effort was made to file an affidavit in reply, within the stipulated period, the application for condonation of delay deserves to be allowed. Hence, the chamber summons is made absolute in terms of prayer clause (a).

7. The defendant is permitted to file the affidavit in reply seeking leave to defend, which was affirmed on 10th June 2019, and serve a copy thereof upon the plaintiff, during the course of the day.

8. The chamber summons stands disposed of.

9. The plaintiff is at liberty to file a rejoinder, if any, within a period of two weeks.

10. The commercial suit be listed on 31st January 2020.

[N.J. JAMADAR, J.]