

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

INTERIM APPLICATION NO.187 OF 2021

IN

SUIT NO.1359 OF 2018

Nikhil Lombar

.. Applicant–Org. Defendant

In the matter between

Vadivarhe Speciality Chemicals Ltd.

.. Plaintiff

Vs.

Nikhil Lombar

.. Defendant

Ms. Shubha M. Dandekar for the Applicant–Original Defendant.

None for the Respondent–Original Plaintiff.

CORAM : A. K. MENON, J.

DATED : 2ND MARCH 2021.

P.C. :

1. This IA is taken out by the applicant–original defendant seeking leave to file written statement in the suit. Vide order dated 22nd August 2019, defendant was granted time to file written statement by 13th November 2019. That was not done. The written statement was thereafter affirmed and declared on 22nd December 2020. The IA sets out that the written statement was handed over to the Advocate’s clerk and thereafter the matter was not pursued for the reasons set out in the application. Since there was delay, the written statement was not accepted by the office and in the meantime, the normal functioning of the court being halted due to the pandemic driven lockdown, the IA could not be filed.

2. Ms. Dandekar submits that IA is filed on 5th January 2021 and has now been circulated. She submits that the IA has been duly served on the Advocate for the plaintiff. She has tendered an acknowledgment, which records that the Advocate for the plaintiff has been served on 25th January 2021. The name of the plaintiff's Advocate appears on board, but none appears for the plaintiff. Subject to filing affidavit-of-service in the registry within one week from today, I am of the view that the IA is liable to be allowed. In the circumstances, I pass the following order :-

- (i) IA is allowed in terms of prayer clauses (b) and (c). The order dated 22nd August 2019 is set aside.
- (ii) Affidavit-of-service of the IA to be filed in the registry on or before 6th March 2021 along with the written statement. Office to accept written statement only if the affidavit-of-service is filed.
- (iii) IA is disposed in the above terms.
- (iv) Suit shall be listed for framing issues on 8th April 2021.

(A. K. MENON, J.)