

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL NOTICE OF MOTION NO. 298 OF 2018
IN
COMMERCIAL IP SUIT NO. 371 OF 2017

M/s. Hewlett Packard Enterprise
India Private Limited

....Applicant

In The Matter Between

Bharat Bhogilal Patel

....Plaintiff

V/s

M/s. Hewlett Packard Enterprise
India Private Limited

....Defendant

None for plaintiff

Mr. Swanand Ganoo i/b Rajesh Ravindran for Defendant/Applicant.

CORAM : K.R.SHRIRAM, J.
DATED : 17th MARCH 2021.

P.C. :

1. This is the Notice of Motion seeking condonation of delay of 134 days in filing written statement.

2. The suit was originally filed as a regular suit and transferred to the commercial division. Therefore, as provided in the proviso of Sub Section 4 of Section 15 of The Commercial Courts Act, 2015, the proviso of Sub Rule (1) of Rule 1 of Order V of the Code of Civil Procedure, 1908 shall not apply to such transferred suit. The court is empowered in its discretion,

prescribe a new time period within which the written statement shall be filed.

3. Mr. Ganoo states that the writ of summons was served on 05/08/2017 and the written statement has been affirmed on 15/12/2017. The applicant has given the reasons for the delay in the affidavit in support and in particular paragraph nos.8 to 11. I am satisfied with the explanation given. Therefore the delay is condoned. Registry to accept the written statement and take the same on record subject to removal of office objections.

4. Mr. Ganoo gives an undertaking that written statement will be lodged in the Registry during the course of this week.

5. Notice of Motion No.298 of 2018 stands disposed.

6. On or before 7th April, 2021 parties shall file their respective affidavit of documents and serve a copy thereof upon the other side, failing which parties will not be permitted to rely on any document, copy whereof is not annexed to the plaint and/or written statement and mentioned in the list of documents annexed to the plaint and/or written statement. This will not, however, prevent a party from confronting a witness of another party with any document.

7. On or before 17th April, 2021 inspection to be completed. If inspection is not given, such party will not be permitted to rely on such document.
8. On or before 26th April, 2021 statement of admission and denial with reasons for denial to be exchanged. If the statement of admission and denial is not given, parties shall be deemed to have admitted the existence of all the documents of the other side.
9. Suit be listed for issues on 5th May, 2021 on which date parties shall come with agreed draft issues and a separate list of issues on which they are unable to agree. On the next date, if parties do not come with draft issues, they are put to notice that they will be put to terms.

(K.R. SHRIRAM, J.)