

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

**INTERIM APPLICATION NO. 185 OF 2019
IN
COMMERCIAL SUIT NO. 331 OF 2016**

Mumbai Metropolitan Region
Development Authority

...Applicant

In the matter between

MVR-GL Joint Venture
vs.

...Plaintiff

Mumbai Metropolitan Region Development Authority

...Defendant

Ms.Suymi Soman i/b. Praxis Legal for Plaintiff.

Mr.Saket Mone with Abhishek Salian and Shrey Shah i/b. Vidhii Partners
for Defendant / Applicant to IA 185/2019.

CORAM : S.C. GUPTE, J.

DATE : 16 MARCH 2021

P.C. :

This interim application has been taken out by the original Defendant seeking recall of an order passed by the Prothonotary & Senior Master transferring the suit to the list of undefended suits and permission to the Defendant to file its written statement. By an order dated 6 January 2017, time was granted by the Prothonotary to the Defendant to file its written statement within four weeks. Since the written statement was not filed by then, by an order dated 8 February 2017, the Prothonotary transferred the suit to the list of undefended suits. The Applicant/Defendant relies on the judgment of this court in the case of **One Square Investments Ltd. vs. Capri UK Investments Ltd.**¹ in support of its

¹ 2020 SCC OnLine Bom 399

submission.

2 It is a settled position in law that so far as transferred suits, i.e. suits originally filed as ordinary suits and later on transferred as commercial suits to be entertained by Commercial Division of this court under Section 15 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018, the time limit of 120 days and forfeiture by the Defendant of his right to file written statement thereafter do not apply to the transferred suit. So far as these suits are concerned, it is for the court to fix an appropriate timeline and even such timeline cannot have the consequence of inviting forfeiture by the Defendant of his right to file written statement. Having regard to the case made out by the Applicant/Defendant in its interim application, there is a case for extending the time for filing of its written statement, though the Defendant would have to bear the costs of such application.

3 The order of the Prothonotary dated 8 February 2017 transferring the suit to the list of undefended suits is recalled and set aside. The Defendant has already served its written statement on the Plaintiff on 29 September 2020. The Defendant is permitted to file its written statement within two weeks from today. The Defendant shall pay costs of this interim application to the Plaintiff quantified at Rs.50,000/- within two weeks from today. The costs shall be condition precedent.

4 The interim application is disposed of.

(S.C. GUPTE, J.)