

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

**INTERIM APPLICATION NO.958 OF 2022
IN
COMMERCIAL SUMMARY SUIT NO.124 OF 2021**

Amish Jaysukhlal Sanghrajka and Another ...Plaintiffs
vs.
M/s. Akshar Shanti Realtors Private Limited ...Defendant

Mr. Prafulla B. Shah a/w. Mr. Tejas Sanghrajka, Ms. Kayval Shah,
for the Plaintiffs.

Mr. Shyam Kapadia a/w. Mr. Nikhil Rajani i/b. V. Deshpande & Co.,
for the Defendant/Applicant.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 07, 2022

P.C.:

1. Heard the learned counsel for the parties.
2. This application is filed to condone the delay of 33 days in filing the appearance on behalf of the defendant post service of writ of summons.
3. The writ of summons was served on the defendant on 28th January, 2022. The defendant has taken this application on 4th March, 2022. It is averred that the defendant was under an impression that the period falling in between 15th March, 2020 to 28th February, 2022 stood excluded from the period of limitation pursuant to the orders of the Supreme Court in **Misc. Application No. 21 of 2022 in Suo Motu Writ Petition (C) No. 3 of 2020** dated

10th January, 2022 and therefore the defendant did not enter appearance.

4. The learned counsel for the plaintiff resisted the prayer in the application on the ground that the defendant has resorted to dilatory tactics.

5. Indisputably, the period of limitation during 15th March, 2020 to 28th February, 2022 stood excluded by the orders of the Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020** (supra). In any event, the delay does not appear to be inordinate and intentional. Thus to advance the cause of justice, the delay in entering the appearance stands condoned.

6. The appearance of the defendant be accepted.

7. The defendant shall file affidavit seeking leave to defend the suit, if desired to, and serve its copy on the plaintiff, within a period of 10 days from today.

8. Application stands disposed.

9. List on 21st April, 2022.

(N. J. JAMADAR, J.)