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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION NO.4240 OF 2022
IN
COMS SUIT (L) NO.2310 OF 2021

Nutan Sreenivas CHS Ltd.

...Applicant/
Plaintiff

Versus

Zeus Infrastructure & Ors.

...Defendants

Mr. Nilesh Parte, for the Applicant /Plaintiff.

Shri H.R. Patel, Master (Admn.), Court Receiver, High Court,
Bombay.

CORAM : R.I. CHAGLA J.
DATE : 13TH OCTOBER, 2022.

ORDER :

1. Heard learned Counsel for the Applicant / Plaintiff.
2. By this Interim Application, the Applicant is seeking condonation of delay of 28 days in filing the present Interim Application. Further relief is sought for setting aside the order of dismissal dated 13th June, 2022 and restoration of the commercial Suit to the file of this Court.
3. The Applicant has stated that there were office

objections raised on the filing of the Suit and they were to be removed. One of the objections was with regard to official translation of the document annexed to the Plaint. The Applicant has submitted that the relevant documents were with the Office of Chief Translator of this Court. The Applicant has thereafter stated that the clerk of the Advocate attempted to remove the office objection, however, papers and proceedings were not traceable hence they could not be removed. The Advocate's clerk visited the office of this Court on 30th May, 2022, 7th June, 2022 and 9th June, 2022, for that purpose. Thereafter there has been lapse on the part of the Advocate's Clerk who had not taken further steps in the matter.

4. The Applicant has stated that the captioned Commercial Suit appeared on board on 13th June, 2022 when the Defendant No.1 moved praecipe for discharge of the Court Receiver appointed by this Court vide order dated 11th October, 2021 in Interim Application (L) No.2324 of 2021. On 13th July, 2022 when the Applicant visited the site of this Court to check the status of the captioned commercial Suit, the captioned commercial suit was showing under the caption of pre admission. Annexeure B is the copy of the case status as on 13th June, 2022. The Applicant was

accordingly under bonafide belief that the Suit was still pending and it is only at the hearing on 13th July, 2022 that the Applicant learnt of the rejection of the Suit for non removal of office objections. The Applicant has stated that there is delay in taking out the Interim Application of 28 days which is unintentional and the same may be condoned.

5. Accordingly, the present Interim Application is taken out.

6. Having considered the averments in the Interim Application as well as taking note of the fact that the Applicant was relying upon its Advocate as well as the Advocate's Clerk and due to default of the Advocate's clerk, there had been non removal of office objections. The Applicant should not be made to suffer on account of default of the Advocate and the Advocate's clerk. Further, it does appear from annexure B which is the case status of the captioned Commercial Suit that on 13th July, 2022, the Suit was shown under the caption of pre admission. Accordingly, benefit of doubt is given to the Applicant that he had no knowledge of the captioned Commercial Suit having been rejected for non removal of office objections. Accordingly, the delay in filing the Interim Application also requires to be condoned. Hence the following order.

(i) The delay of 28 days in taking out the Interim Application is condoned.

(ii) The order of rejection dated 13th June, 2022 is set aside and the captioned Commercial Suit is restored to file.

(iii) Needless to state that upon restoration of the captioned Commercial Suit the Interim Application filed therein is restored to file. Further, the orders passed therein stand revived.

(iv) The Applicant / Plaintiff is granted time of three weeks to remove office objections from the date of this Order and failing to do so within the stipulated time, will result in captioned Commercial Suit being rejected without further reference to this Court.

(v) Interim Application is disposed of in the above terms.

[R.I. CHAGLA J.]