

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

**INTERIM APPLICATION NO. 631 OF 2022
IN
NOTICE OF MOTION (L) NO. 960 OF 2017
IN
SUIT NO. 21 OF 2018**

Ashu Dutt ... Applicant/Orig. Plaintiff

Versus

Aneesha Dutt & Ors. ... Defendants

Ms. Sapana Rachure for the Applicant/Orig. Plaintiff.
Mr. Akash Rebello a/w Mahir Bhatt i/b Wasim Ansari for Defendant No.1.

CORAM : R.I. CHAGLA, J.

DATED : 21st JULY, 2022.

ORDER :

1 Heard the learned Counsel for the parties. By this Interim Application the Applicant is seeking condonation of delay of 593 days in filing the present Interim Application. Further relief is sought for recall of the order dated 10.08.2018 and for Notice of Motion (L) No.960 of 2017 to be restored to file and grant of one week's time to remove office objections.

2 The Applicant/Orig. Plaintiff has stated that the Notice of Motion (L) No.960 of 2017 had come up from time to time and orders have been passed by this Court on 24.04.2017, 02.05.2017 and thereafter by conditional order dated 10.08.2018, the Notice of Motion stood dismissed on account of non-removal of office objections which was to be removed within a period of one week from the date of the said order. The Applicant has stated that the Applicant's Advocate was handling the matter and that the Applicant was under the impression that the Notice of Motion had been disposed by order dated 02.05.2017 as relief had been granted in the Notice of Motion. The Applicant came to know only on 24.10.2021 about the dismissal of Notice of Motion (L) No.960 of 2017. The Applicant has stated that erstwhile Advocate had not removed the office objections in the matter and due to default of the erstwhile Advocate and the Advocate's Clerk, the Applicant should not be made to suffer. Accordingly, the present Interim Application has been taken out.

3 Considering the averments in the Interim Application as well as submission of the learned Counsel for the Applicant, a case is made out for grant of relief sought in the Interim Application. This upon accepting the submission of the Applicant that she should not be made to suffer due to the erstwhile Advocate and the Advocate's clerk who had been negligent in non removal of office objections and by virtue of which the

Notice of Motion came to be dismissed. Hence the following order is passed :

- i) Delay of 593 days in filing the present Interim Application is condoned.
- ii) The conditional order dated 10.08.2018 is recalled and Notice of Motion (L) No.960 of 2017 is restored to file.
- iii) The Applicant is granted one week's time to remove the office objections failing which the Notice of Motion shall stand rejected without further reference to the Court.
- iv) Interim Application is disposed of in the above terms.

(R.I. CHAGLA, J.)

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signed by
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SUSHIL
WAGHMARE
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