

to file the Written Statement in the captioned Suit.

The Applicants had been served with the Writ of Summons on 16th April, 2019. The delay in filing the Written Statement has been explained in Paragraph 5 of the Affidavit-in-Support of the Notice of Motion and which is on the count of the transactions being very old i.e. between the period 1979 to 1989 and the documents not readily available. Accordingly, time taken to compile all the documents and for which the extensive search had been taken by the Applicants in the respective offices for papers and proceedings of the matter. The Applicants have stated that through oversight, the instructions were not sent to their Advocates and Solicitors to prepare the draft Written Statement in the matter and the said instructions were given only in the month of July 2019. Accordingly, the Advocate/Solicitor for the Defendants prepared and forwarded the draft Written Statement to these Defendants which was approved and signed on 6th August, 2019 and has been served on the Plaintiff. The Applicants have stated that the delay in filing the Written Statement is through oversight and is bonafide.

3. I have considered the averments in the Affidavit-in-Support of the Notice of Motion as well as taken note of the fact that though

the Plaintiff had appeared through its Advocate on the previous occasions it has failed to remain present when the matter is listed today.

4. I am satisfied with the explanation for delay given in Paragraph 5 of the Affidavit-in-Support of Notice of Motion. It is necessary to note that the delay is not beyond the permissible period of 120 days from the service of Writ of Summons as Writ of Summons on 16th April, 2019. The Written Statement was executed on 6th August, 2019 and served on the other side. Further, Notice of Motion has been immediately taken out on 7th August, 2019 i.e. 82 days after the service of Writ of Summons.

5. Accordingly, the relief sought for in the Notice of Motion is granted. Hence, the following order is passed :

(i) The delay of 82 days in filing the Written Statement on behalf of the Applicants/Original Defendant Nos. 3 and 4 is condoned.

(ii) The Applicants/Defendant Nos. 3 and 4 are permitted to file Written Statement in the captioned Suit, subject to it being filed in the Registry within one week

from today.

(iii) Notice of Motion is accordingly disposed of.

[R.I. CHAGLA J.]