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

INTERIM APPLICATION NO.4319 OF 2022

IN

COMS SUIT (L) NO.7410 OF 2021

Pranav Construction Pvt. Ltd.

...Applicant /
Plaintiff

Versus

Sparsh CHS Ltd. & Anr.

...Defendants

Mr. Rohit M. Yadav with Mr. Nirav N. Karia i/b. Bhavin R Bhatia for
the Plaintiff.

Mr. Suraj S. Ghogare for Defendant Nos.2.

CORAM : R.I. CHAGLA J

DATE : 14 February 2023

ORDER :

1. This Interim Application has been taken out for restoration of Commercial Suit on the file of this Court and for permission to comply with the remaining office objections within a period of one week. The condonation of delay of 95 days in filing the present Interim Application for restoration of the above Commercial Suit has also been sought.

2. The learned Advocate for the Applicant states that the prayer 'b' of the Interim Application is not being pressed which is for compliance with office objections in view of the Applicants / Plaintiff seeking leave to withdraw the above Commercial Suit upon its restoration.

3. The Applicant / Plaintiff has stated that upon filing of the above Commercial Suit, office objections were raised and since the Applicant / Plaintiff intended to immediately withdraw the Suit, this could not be done on account of miscommunication. The Applicant has further stated that on account of Covid-19, the Advocate on record of the Applicant was to put through inconvenience on account of junior Advocates of the office not attending and due to inadvertence the common notice issued by this Court was not noticed.

4. The Applicant has stated that recently in or about September, 2012 the Advocate on record contacted the representative of the Applicant to seek instruction to withdraw the Suit and refund of Court Fees. However, it was learnt that by the common notice issued by this Court, i.e. by last common notice dated 6th May, 2022,

for non removal of office objection, the above Suit stood rejected on 13th June, 2022 as the office objection were to be removed upto 10th June, 2022.

5. The Applicant has stated that the delay in filing the present restoration application is neither deliberate and due to unavoidable circumstances, hence the delay be condoned.

6. Having considered the averments in the Interim Application as well as taking the note of the fact that the Applicant / Plaintiff intend to withdraw the Suit and due to inadvertence and oversight the office objection remained to be complied with which resulted in the above Commercial Suit being rejected on 13th June, 2022 for non removal of office objections. The relief sought for in the Interim Application requires to be granted by condoning the delay. Hence, the following order:-

(i) The present Commercial Suit is restored to file.

(ii) The compliance with the remainder office objection by the Applicant / Plaintiff is dispensed with in view the Applicant /

Plaintiff seeking withdrawal of the above Commercial Suit.

(iii) The Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]