

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

**INTERIM APPLICATION NO. 415 OF 2023
IN
COMMERCIAL SUIT (LODGING) NO. 29582 OF 2021**

Jyoti Manoj Sippy ...Applicant

In the matter between

Jyoti Manoj Sippy ...Plaintiff

vs.

Maehak Manoj Sippy ...Defendant

Mr.Subhradeep Banerjee i/b. Mr.Ashokvardhan Purohit – Advocate
for Applicant.

Mr.Pranav Pradhan i/b. FF and Associates – Advocate for Defendant.

CORAM : S. M. MODAK, J.

DATED : 23RD AUGUST 2023

P. C. :

1. Heard learned Advocate for the Applicant – Plaintiff.
2. It is true that learned Prothonotary has issued a notice on 31st March, 2022 thereby informing the parties that if objections are not removed within three weeks from the notice, those proceedings shall stand rejected. He has quoted Rule 986 of High Court (Original Side) Rules, 1980.

3. Applicant places reliance on the observations made by this Court in an order dated 10th March, 2023 passed in Interim Application No.308 of 2019 in case of ***Lok Everest Co-op. Hsg. Soc. Ltd. V/s. M/s. Jaydeep Developers & Ors.***, and my attention is invited to Para No.9.

4. Unless and until, the individual matters are listed, Suit cannot be dismissed by issuing blanket directions. In this case, the Suit was not listed. Even though it is true that earlier Defendant was granted time to file a reply on affidavit, in this matter, it is not filed and today extension is sought. However, as this Court has already clarified the power of learned Prothonotary, I do not think that further time needs to be granted. Suit needs to be restored.

5. Copies of Complaint and Written Statement be served on learned Advocate for the Respondent. Office objections, if any, be removed within 4 weeks from today.

6. The present suit was filed as a Commercial Suit. Now, Applicant claims that in fact, it ought to have been filed as an Ordinary Suit. There is a prayer (b) in the Application. It can also be allowed.

7. Hence, following order :-

O R D E R

- (i) Application is allowed in terms of prayer clauses (a) and (b).

[S. M. MODAK, J.]