



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL WRIT PETITION NO. 13838 OF 2024

Ms. Osnar Chemical Pvt. Ltd.

...Petitioner

vs.

M/s. Advance Paints Pvt. Ltd.

...Respondent

Adv. Mayank Bagla a/w Adv. Mayank Mishra i/by Durgaprasad Sabnis	Advocate for the Petitioner
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CORAM : S. M. MODAK, J.

DATE : 08th OCTOBER 2024

P. C. :-

1. Not on board. Matter is taken on board by way of Praecipe.
2. Heard finally by consent.
3. The present Petitioner is defendant in Commercial Suit No. 1241 of 2024. Whereas present Respondent is Plaintiff. The Defendant has not filed written statement, hence suit proceeded *ex-parte*. Then suit was fixed for *ex-parte* evidence on 08.10.2024. The Trial Court refused to mark the appearance of the defendant because the matter has already proceeded *ex-parte* in the morning. The trial

Court directed the defendant to take steps for filing of the written statement. On the same date the application was filed under Section 151 of the Civil Procedure Code i.e. on 04.09.2024. There is prayer to set aside *ex-parte* order dated 04.09.2024 and condone the delay in filing Vakalatnama. It is told that trial Court has rejected this application.

4. According to learned Advocate for the Respondent-Plaintiff in fact the defendant ought to have filed Notice of Motion.

5. Learned Advocate for the Petitioner assures that he will file Notice of Motion.

6. Hence, this writ petition is disposed of with following directions:-

- (i) The defendant-Petitioner is at liberty to file Notice of Motion within a week from today.
- (ii) The trial Court is at liberty to decide that Notice of Motion as per law.

[S. M. MODAK, J.]