

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

**WRIT PETITION NO. 17248 OF 2024**

M/s. Hi Rock Construction Company

... Petitioner

vs.

Kantilal Laherchand

... Respondent

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|---------------------------------------------------------------------------------------|---------------------------|
| Mr. Adil Parsurampuriah a/w. Adv. Kejeshri Thakar i/b. Adv. Prashant Parsurampuriah : | Advocates for Petitioner. |
| Ms. Samiksha Kanani a/w. Ms. Prasanna Pawar :                                         | Advocates for Respondent. |

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**CORAM : S. M. MODAK, J.**

**DATE : 3<sup>rd</sup> DECEMBER 2024**

**P. C. :-**

1. Heard learned Advocate for Petitioner/ Defendant and learned Advocate for Respondent/ Plaintiff. The Plaintiff has filed Summary Suit No. 321 of 2022. During the pendency, the defendant Company on 22/8/2024 filed two draft Notice of Motion. They are as follows :-

- a. One for dismissal of suit as per provisions of Rule 119 of City Civil Court Rules. It was registered and numbered as 1751 of 2023.
- b. Second is condoning the delay caused in filing an Affidavit in Reply. It was not registered at the instance of defendant/petitioner and finally got dismissed on 22/8/2024. it was only registered for statistical purpose.

2. That is why present petition for setting aside the said order. There is strong objection on behalf of Respondent/ Plaintiff. According to her, if the defendant can steps for registration of one motion why they have not taken steps for registration of another motion. But deliberately they have not taken necessary steps. Alternatively she submitted for imposition of heavy costs. In respect of grievance about not taking steps for issuing summons for judgement, she submitted steps for issuing Summons for Judgment were taken in time.

3. At this stage this Court is not considering whether any of the Motion can be allowed or not. It is for the city civil court to decide. The only issue is granting permission to register the Notice of Motion. For the reasons stated in the petition I am allowing the petition. Because if the order is not set aside, it will amount to denying a litigant

right to agitate their grievances. This Court feels subject to costs, order can be set aside. So also the Petitioner can be granted some time to register that Notice of Motion. Hence following order :

### ORDER

- (i) Order dated 22<sup>nd</sup> August 2024 thereby dismissing the unregistered Notice of Motion is set aside subject to costs of Rs.10,000/- (Rupees Ten Thousand only) to be paid to Respondent/ Plaintiff.
- (ii) Cost be paid within a period of two weeks from today.
- (iii) This is subject to further direction to register that Notice of Motion in any eventuality within a period of two weeks from today.

[S. M. MODAK, J.]

KISHOR  
VISHNU  
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