

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

INTERIM APPLICATION NO. 2043 OF 2025

IN

SUIT NO. 1276 OF 2019

Bhavana Harivadan Patel & Ors.

...Applicants

In the matter between

Rishikesh Niranjani Patel & Ors.

...Plaintiffs

V/s.

Brahmesh Somabhai Patel & Ors.

...Defendants

Mr. Jatin Sheth for the Plaintiffs.

Mr. Shahbazkhan Sandi i/b YNA Legal for the Defendant No.1.

Ms. Chitra C. Rao for the Applicants/Defendants No. 2 to 4.

CORAM : ABHAY AHUJA, J.
DATE : 17th SEPTEMBER, 2025

P.C. :

Interim Application No. 2043 of 2025

1. This Interim Application filed on behalf of the Defendants No. 2 to 4 seeks setting aside the orders dated 13th October, 2023 and 8th January, 2024 passed by the learned Prothonotary & Senior Master and the condonation of the delay in filing the Interim Application and directions to the Prothonotary & Senior Master to take the written statement of the Defendants No. 2 to 4 on record.

2. Learned Counsel appearing for the Plaintiff and for the Defendant No. 1 have no objection if the Interim Application is allowed and the written statement of the Defendants No. 2 to 4 is taken on record.

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3. Ms. Rao, learned Counsel appearing for the Applicants draws this Court's attention to paragraphs 3 to 11 of the said Application and submits that since the delay was not deliberate or intentional, in view of the facts set out in the Application, this Court may permit the filing of the written statement.

4. A perusal of the Application indicates that the Defendants have stated unavoidable circumstances and preoccupation with family matters for having been unable to file the written statement.

5. It is settled law that where costs can compensate for the delay caused, in the interest of justice the delay be condoned. It has also been averred in paragraph 5 of the Application that the Plaintiffs have also sought reliefs similar to what the Applicants had sought in the Suit No. 1450 of 2019. That the Defendants have also taken steps and have had the Suit No. 1450 of 2019 transferred from the Bombay City Civil Court to this Court.

6. In view of the aforesaid, subject to payment of costs of Rs. 15,000/- to the High Court Employees Medical Welfare Fund at Mumbai, within a period of two weeks, the orders dated 13th October, 2023 and 8th January, 2024 are hereby set aside. The delay of 326 days

is also condoned and the Prothonotary & Senior Master is directed to take on record the written statement on behalf of the Defendants No. 2 to 4.

7. The Interim Application accordingly stands allowed and disposed as above.

(ABHAY AHUJA, J.)