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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6205 OF 2026
IN
APPEAL FROM ORDER NO. 197 OF 2021

Hemavanda B. Namdarian … Applicant

In the matter between:
Hemavanda B. Namdarian ...Appellant

Versus
Designated Officer, Executive Engineer (Building And Factory) And Another ...Respondents

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Mr. Satish R. Mishra, a/w. Ms. Simran Shirvoikar, for Applicant.

Mr. Dharmesh Vyas (Through V.C.)a/w. Ms. Smita Tondwalkar, for Respondent/BMC.

CORAM: AARTI SATHE, J.

DATE: 17 AUGUST 2026

P.C.

1. This interim application has been filed praying for the following reliefs:-

> a. That this Hon'ble Court be pleased to extend the time stipulated under clause (i) of the operative order passed in Appeal From Order No. 197 of 2021 for filing the Affidavits) in lieu of Examination-in-Chief before the learned City Civil Court, Mumbai, by a further period of 4 weeks, or for such further period as this Hon'ble Court may deem fit and proper.
> b. That this Hon'ble Court be pleased to clarify that, upon such extension, the Applicant shall be entitled to file the Affidavits) in lieu of Examination-in-Chief before the learned City Civil Court, Mumbai, and that the learned Trial Court may proceed with the Suit in accordance with law.
> c. Pending the hearing and final disposal of the present Interim Application, this Hon'ble Court be pleased to stay the dismissal or any coercive action in L.C. Suit

No. 156 of 2021 on the ground of non-filing of the Affidavit(s) in lieu of Examination-in-Chief.
d. For such other and further reliefs as this Hon'ble Court may deem fit in the facts and circumstances of the case.

2. By an order dated 18th April 2026 passed by a Co-ordinate Bench of this Court, the Applicant/Original Plaintiff was directed to file the Affidavit in lieu of examination-in-chief of all its witnesses as expeditiously as possible and, in any event, not later than 7th May 2026 before the Trial Court. The Trial Court was further directed to hear and dispose of the Suit at the earliest, and preferably before 15th June 2027. It was also directed that none of the parties shall seek unnecessary adjournments before the Trial Court, and that all parties shall extend full co-operation to ensure that the trial proceeds within the stipulated timeline.

3. Learned counsel for the Applicant/Original Plaintiff, Mr. Satish R. Mishra, has brought to my attention an order dated 16th July 2026 passed by the Trial Court, wherein it has been categorically recorded that the direction issued by the Co-ordinate Bench of this Court on 18th April 2026 to file the Affidavit in lieu of examination-in-chief of all the witnesses was not complied with within the stipulated period ending on 7th May 2026. It is further recorded that, even on the said date, none appeared on behalf of the Applicant/Original Plaintiff before the Trial Court. The Trial Court, therefore, directed that the matter be placed on 30th July 2026 under the caption “For Dismissal”.

4. On 30th July 2026, appearance was entered on behalf of the Applicant/Original Plaintiff before the Trial Court, and it was submitted that the present Interim Application had been filed before this Court and was to be taken

up for circulation on 13th August 2026. In view of the pendency of the present Interim Application, the Trial Court thought it appropriate not to pass any adverse orders in the Suit. The orders dated 16th July 2026 and 30th July 2026 passed b the Trial Court are taken on record.

5. Learned counsel appearing on behalf of the Applicant/Original Plaintiff submitted that, after the passing of the order dated 18th April 2026, by this Court he was engaged in the matter and, being newly appointed, was required to peruse and familiarise himself with the voluminous records and proceedings. It was submitted that, in view thereof, the Applicant could not comply with the direction to file the Affidavit in lieu of examination-in-chief within the stipulated time, i.e., on or before 7th May 2026.

6. This Court is aware of the position in law that an Interim Application cannot ordinarily be filed in a disposed of matter, in view of the judgment in the case of **State of UP Vs. Shri Brahm Datt Sharma**[1]. However, having regard to the peculiar facts and circumstances of the present case and the explanation furnished by the Applicant/Original Plaintiff in the Interim Application, this Court is of the view that, as a last opportunity, a reasonable extension of time ought to be granted to the Applicant/Original Plaintiff to comply with the directions issued by this Court on 18th April 2026.

7. No further extension of time shall be granted. In view thereof, the Interim Application is allowed in terms of prayer clause (a). The time granted to the Applicant to file the Affidavit in lieu of examination-in-chief before the learned

1 AIR 1987 SC 943

City Civil Court is extended by a further period of three weeks from today. The trial shall thereafter proceed in accordance with law.

8. Considering the aforesaid extension, the timeline fixed by this Court by order dated 18th April 2026 for disposal of the suit also be reasonably extended with an endeavour to dispose of the suit as expeditiously as possible.

9. The Interim Application is disposed of in the aforesaid terms. There shall be no order as to costs.

10. This order shall not be construed as a precedent in any other pending matter and has been passed having regard to the peculiar facts and circumstances of the present case.

(AARTI SATHE, J.)