

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 17839 OF 2025

Aglowmed Ltd and Ors ..Petitioners
Versus
Nine Divine Enterprises Through Its Proprietor ...Respondent

Mr. Yuvraj Singh, with R Lohar, i/b Sarthak Solaskar, for the
Petitioners.
Mr. Mayank Bagla, with Swapan Samdani, for the Respondent.

CORAM: N. J. JAMADAR, J.
DATE : 27th JANUARY 2026

ORAL ORDER:

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 7th February 2020 passed by the learned Judge, City Civil Court, whereby Notice of Motion No. 169 of 2019 taken out by the Petitioners-Defendants in the Summary Suit seeking condonation of delay in filing Affidavit in response to Summons for Judgment to seek the leave to defend the suit, came to be dismissed by the learned Judge on the ground that Mr. Paresh Dange, who has affirmed the Affidavit in Support of the Notice of Motion, was neither the director of Defendant No.1 nor appeared to have been authorised.

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3. Thus, for want of proper authorization to take out the said Notice of Motion, the learned Judge was persuaded to dismiss the Notice of Motion, without going into the merits of the Application for condonation of delay in filing the Affidavit in response to the Summons for Judgment.

4. Mr. Singh, the learned Counsel for the Petitioner, submitted that Mr. Paresh Dange was an authorised officer of Defendant No.1. However, on account of inadvertence, the necessary letter of authorisation was not tendered before the learned Judge. It was further submitted that the said Defendant No.1, being a corporate entity, the defect in representation was curable.

5. Mr. Bagla, the learned Counsel for the Respondent-Plaintiff, resisted the Petition on the ground that the Petition suffers from delay and laches. The impugned order was passed on 7th February 2020 and the instant Petition has been filed in the month of November 2025, only. No explanation, much less a satisfactory one, has been offered for such huge delay. On this count alone, the Petition be dismissed, submitted Mr. Bagla, the learned Counsel for the Respondent.

6. From the perusal of the Affidavit filed in Support of the Notice of Motion, it appears that Mr. Paresh Dange claimed to be an authorized officer of Defendant No.1. In the succeeding paragraph, however, the Deponent claimed to be a director of the Defendant No.1-company.

Prima facie it appears that the Affidavit in Support of the Notice of Motion was drafted in an inarticulate manner. Nonetheless, it is trite, the defect in the representation of a corporate entity is curable one. A profitable reference in this context can be made to the judgment of the Supreme Court in the case of **United Bank of India Vs Naresh Kumar and Ors.**¹

7. In the case at hand, from the perusal of the impugned order it does not appear that the hearing in the Summary Suit progressed further. Thus, the cause of justice would be advanced if the learned Judge, City Civil Court determines the Notice of Motion on merits after the Petitioner rectifies the defect in the representation of Defendant No.1-company. However, the delay and inconvenience caused to the Respondent-Plaintiff is required to be adequately addressed.

8. When the Court expressed the aforesaid opinion, the learned Counsel for the Respondent-Plaintiff, on instructions, submits that, on account of the time that has elapsed, the Respondent-Plaintiff is not averse to taking the Affidavit filed on behalf of the Petitioner-Defendant to the Summons for Judgment on record, by condoning the delay.

9. Hence, the following order:

: O R D E R :

- (i) The Petition stands allowed.

¹ (1996) 6 SCC 66.

(ii) The impugned order stands quashed and set aside, subject to the costs of Rs.25,000/- to be paid by the Petitioners-Defendants to the Respondent-Plaintiff, within a period of two weeks from today.

(iii) During the said period of two weeks, the Petitioners shall be at liberty to make necessary amends in the representation of Defendant No.1-company before the learned Judge, City Civil Court.

(iv) Upon payment of costs, the Notice of Motion No. 169 of 2019 shall stand allowed and the delay in filing the Affidavit in response to the Summons for Judgment shall stand condoned.

(v) The learned Judge, City Civil Court is requested to hear and decide the Summons for Judgment, on its own merits, and in accordance with law, as expeditiously as possible.

[N. J. JAMADAR, J.]