MOHAMMAD AREEB MOHD AKBAR
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 2141 OF 2026
IN
COUNTER CLAIM NO. 5 OF 2026

Pankh Properties Private Limited ...Applicant

Versus

Darious Rutton Kavasmaneck ...Respondent

Mr. Dhruva Gandhi a/w Ms. Jahnavi Pandey, Ms. Namrata Kondavale i/b Dhru & Co. for the Applicant.

Ms. Firdaus Moosa i/b Parekh Mahadik for Respondent-Counter Claimant.

CORAM : ARIF S. DOCTOR, J.

DATE : 1st OCTOBER, 2026

P.C.

1. The Applicant, who is the Plaintiff in the captioned Suit and the Respondent in the Counter Claim filed by the Defendant, has filed the present Interim Application seeking condonation of a delay of 30 days in filing the Written Statement to the Counter Claim.

2. I have heard the learned counsel for the parties.

3. Mr. Gandhi, learned counsel appearing on behalf of the Applicant, submits that the delay in filing of the Written Statement was only of 30 days. He thus submitted that the delay was neither inordinate, nor of such nature that condoning the same would cause any prejudice to the Respondents.

4. Mr. Gandhi pointed out that the delay was occasioned because the Applicants had sought inspection of the documents, vide a letter dated 12th January 2026. The Respondents however had failed to give such inspection to the Applicants. He submitted that the Applicants, after initially waiting for inspection, then proceeded to prepare the Written Statement, having realised that inspection was not forthcoming and to avoid any further delay. He therefore submitted that the delay was not intentional nor was it on account of any inertia on the part of the Applicants. He reiterated that the slight delay arose only because of the Respondents' failure to provide inspection. In these circumstances, Mr. Gandhi submitted that the delay ought to be condoned, and the Applicants be permitted to file their Written Statement to the Counter Claim.

5. Ms. Moosa, learned counsel appearing on behalf of the Respondents, opposed the Application on the ground that the Application was premised on an entirely false basis. Learned Counsel pointed out that while condonation of delay in the filing of the Written Statement was sought on the basis that the Respondents had not given inspection, she submitted that the letter seeking inspection was dated 12th January 2026, which was well before the Counter Claim had been filed. Ms. Moosa therefore submitted that the Applicants' reliance on the said letter was entirely misleading and false unless the Applicants had a premonition that the Respondents would be filing a Counter Claim. She submitted that the Applicants having chosen to base their case on a patent falsehood, must necessarily face the consequences for doing so.

6. Mr. Gandhi, in response, denied that the Applicants had made any false

and/or misleading statement as alleged or otherwise. He submitted that the Respondents were deliberately misreading the letter dated 12th January 2026. He then invited my attention to the said letter and pointed out that the Applicants had specifically sought "*inspection of all the documents that your Clients have and or propose to refer to and or rely upon in this matter*". He therefore submitted the Respondents' contention that inspection was qua the Counter Claim or only the Counter Claim was plainly incorrect. He reiterated that no false statement was made by the Applicants nor was the Application premised on any false or misleading basis.

7. Having heard learned counsel for the parties and having considered the rival contention, I find that the Applicant has shown sufficient cause to condone the delay, which I must note is of 30 days. The principal objection raised by the Respondents is that the Applicant made a false statement in relation to its request for inspection. A plain reading of the letter dated 12th January 2026 makes clear that inspection was sought for "all the documents", which the Respondents had referred "or proposed to refer" to or rely upon "in the matter". The Counter Claim was filed shortly after the said letter was written, and therefore there is no gainsaying that it would not cover the documents relied upon by the Respondents in the Counter Claim. Crucially, the Respondents have, despite such request, not given inspection and hence, in my view cannot be allowed to make capital out of their own default. As already noted, the delay is neither inordinate or of such a nature that condoning the same would prejudice the Respondent affecting any vested right.

8. Hence, in my view the substantive interests of justice would best be served if the delay is condoned and the Applicants are permitted to file their Written Statement to the Counter Claim so that the Counter Claim can be adjudicated on merits.

9. Accordingly, the Interim Application is allowed in terms of prayer clauses (a) and (b).

[ARIF S. DOCTOR, J.]