

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

COMMERCIAL SUIT NO. 98 OF 2016

Samudra Darshan Co-Op. HSG Soc. Ltd.

...Plaintiff

V/s.

M/s Shubh Enterprises and Ors.

...Defendants

WITH

INTERIM APPLICATION NO. 2837 OF 2025

Mr. Arun Panickar for the Plaintiff.

Mr. V. S. Kapse with Ms. Padmashri K. for the Defendant No.2-Applicant.

CORAM : ABHAY AHUJA, J.
DATE : 22nd JANUARY, 2026

PC. :

1. Pursuant to the order dated 8th January, 2026, today when the matter is called out, Mr. Panicker, learned Counsel appears for the Plaintiff and in response to a query raised by this Court on the last date confirms that the undertaking to file affidavit of service as recorded by order dated 7th June, 2017 does not appear to have been complied with. If this be the case, then the service of writ of summons by substituted service as claimed by the Plaintiff may be vitiated for non compliance of the undertaking recorded in order 7th June, 2017 of the Prothonotary & Senior Master.

2. In this view of the matter, this Court is of the view that if issuance and service of writ of summons is waived on behalf of the Defendants No. 1 and 2, direction to file written statement in time bound manner can be given. Mr. Kapase, learned Counsel appearing for the Applicant – Defendants No. 1 and 2 waives issuance and service of the writ of summons.

3. Let written statement be filed and served on behalf of the said affidavit within a period of 30 days.

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

(ABHAY AHUJA, J.)