

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION**

**INTERIM APPLICATION NO. 4875 OF 2025
IN
COMMERCIAL ADMIRALTY SUIT NO. 6 OF 2025**

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M V DARA IMO NO. 9250244)...APPLICANT

V/s.

ULTIMAR DMCC)...RESPONDENT

Mr.Dhruva Gandhi a/w. Mr.Heetkumar Vachhani, Ms.Benaifer D'Souza
i/by Crawford Bayley and Co., Advocate for the Applicant in
IA/4875/2025 and for the Defendant in COMAS/6/2025.

Ms.Keyna Bhavsar i/by Mr.Bimal Rajasekhar, Advocate for the Plaintiff.

CORAM : ABHAY AHUJA, J.

DATE : 13th MARCH 2026

PC. :

1. This Interim Application seeks condonation of delay of 28 days in
filing the written statement which is annexed to the Interim Application
at Exhibit A.

2. When the matter is called out, Mr.Dhruva Gandhi, learned
Counsel, appears for the Applicant and submits that beyond the 30
days' period, which is afforded by the Code of Civil Procedure, 1908

("CPC") and the Commercial Courts Act, 2015, as applicable to the said Code, there has been a delay of 28 days in filing the written statement and that the same has been for the reasons as stated in paragraph 7.

3. Mr.Gandhi for the Applicant / Defendant submits that the 28 days' delay is within the 120 days period available to the Defendant, and that, therefore, this Court may condone the delay, subject to reasonable costs.

4. On the other hand, Ms.Keyna Bhavsar, learned Counsel, appears for the Respondent / Plaintiff and submits that earlier an objection was raised as to the authority of the signatory to the Interim Application which is now sought to be explained in the Additional Affidavit in rejoinder.

5. Mr.Gandhi submits that earlier the minutes of the board meeting and the Power of Attorney were not annexed and now the said minutes of the board meeting and Power of Attorney have been annexed, to which Ms.Bhavsar for the Respondent does not object.

6. The Defendant was served the writ of summons on 24th March 2025. The time to file written statement within the 30 days' period

ended on 23rd April 2025. The written statement at Exhibit A has been affirmed on 22nd May 2025 and the Interim Application has been filed on the same date and that there has been a delay of 28 days.

7. It has been explained in paragraphs 7(a), (b) and (c) of the Interim Application that as the owner of the Defendant Vessel resides overseas and around the time when the writ of summons was served by the Plaintiff, the owner encountered significant impediments due to the observance of national holidays of Easter festival and that due to the holidays, the access to legal and administrative services was hindered and thereafter there were also challenges faced in coordinating with the legal representatives in India coupled with the holidays in Liberia causing delays in communication and transmission of critical documents. That in view of such logistical hurdles, there were delays and effective coordination with the legal Counsel for preparation and filing of the written statement could not take place, and therefore, there has been a delay, which be condoned under Order VIII Rule 1 of the CPC, which is unintentional and attributable to the circumstances beyond the Defendant's control.

8. Having heard the learned Counsel and having considered the submissions, this Court is of the view that the delay being within the outer

limit of the 120 days' period available in commercial matters and in view of the explanation sought to be proffered in paragraph 7 of the Interim Application, but without any specific particulars, this Court is inclined to allow the application, subject to payment of costs of Rs.25,000/- to the Plaintiff within a period of two weeks.

9. Subject to the payment of costs as above, the delay of 28 days is condoned. Let the written statement subject to above payment of costs be accepted by Registry with a copy to the other side.

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

11. Subject to the above, list the Suit for first case management hearing on **17th April 2026**.

(ABHAY AHUJA, J.)