

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

INTERIM APPLICATION NO. 7489 OF 2025
IN
SUIT NO. 610 OF 2017

BENNET COLEMAN & CO. LTD.)...APPLICANT
IN THE MATTER BETWEEN
K.M.M. PRASANNA)...PLAINTIFF
VERSUS
MEENAL BAGHEL AND OTHERS)...DEFENDANTS

WITH

INTERIM APPLICATION NO. 7310 OF 2025
IN
SUIT NO. 610 OF 2017

ANUPAM DASGUPTA)...APPLICANT
IN THE MATTER BETWEEN
K.M.M. PRASANNA)...PLAINTIFF
VERSUS
MEENAL BAGHEL AND OTHERS)...DEFENDANTS

WITH

INTERIM APPLICATION NO. 7634 OF 2025
IN
SUIT NO. 610 OF 2017

VINEET JAIN)...APPLICANT
IN THE MATTER BETWEEN
K.M.M. PRASANNA)...PLAINTIFF
VERSUS
MEENAL BAGHEL AND OTHERS)...DEFENDANTS

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**WITH
INTERIM APPLICATION NO. 7635 OF 2025
IN
SUIT NO. 610 OF 2017**

MEENAL BAGHEL	)...APPLICANT	
	IN THE MATTER BETWEEN	
K.M.M. PRASANNA	)...PLAINTIFF	
	VERSUS	
MEENAL BAGHEL AND OTHERS	)...DEFENDANTS	

**WITH
INTERIM APPLICATION NO. 7633 OF 2025
IN
SUIT NO. 610 OF 2017**

NAZIA SAYED	)...APPLICANT	
	IN THE MATTER BETWEEN	
K.M.M. PRASANNA	)...PLAINTIFF	
	VERSUS	
MEENAL BAGHEL AND OTHERS	)...DEFENDANTS	

Ms. Manjiri Shah, Senior Advocate a/w. Mr. Swaraj Jadhav i/b. Mr. Vijay Hiremath for the Applicants.

Mr. Ryan Dsouza a/w. Mr. Sourabh Arora, Mr. Vikrant Singh Negi, Mr. Pratik Thakkar i/b. DSK Legal for the Respondent-Plaintiff.

CORAM : ABHAY AHUJA, J.

DATE : 06th JANUARY 2026

PC. :

1. The above Interim Applications have been filed by the original Defendants No. 1 to 5 in Suit No. 610 of 2017, seeking to condone delay of approximately 2001 days in filing of the written statement.

2. Ms. Manjiri Shah, learned Senior Counsel appearing for the Applicants submits that by an order dated 02nd February 2018 passed in Notice of Motion No. 1952 of 2017 in the Suit, a statement was made on behalf of all Defendants that they were willing to pull down and remove the article which was published on 17th August 2017 in the Mumbai Mirror Tabloid Edition, the Mumbai Mirror Website, Mumbai Mirror intermediary website links and any other medium wherein the article was published and that the said article was in fact pulled down. Ms. Shah submits that this was with an understanding that the said issue would be resolved amicably between the parties.

3. Ms. Shah submits that two of the Applicants viz. Anupam Dasgupta and Meenal Baghel had approached the intermediaries for initial talks to amicably settle and had submitted a draft proposal for settlement to the said intermediary and were under the impression that the negotiations were under process and thereafter, the Applicants were informed that the said issue was being settled amicably and was being looked into.

4. Ms. Shah, learned Senior Counsel for the Applicants, submits that the Writ of Summons was served upon the Applicants in September 2019 and the Applicants were under a *bona fide* belief that

the said proceedings were being amicably settled and it was only in December 2024, it was communicated to the Applicant by their Advocates that they will have to file a written statement in the suit. However since the Applicants had work exigencies, the written statement could not be immediately prepared. The Applicants thereafter called for the entire proceedings of the suit to go through, and after going through the proceedings and discussing the issues, the Applicants instructed their Advocates to prepare draft written statements on their behalf.

5. Ms.Shah submits that the draft written statement of Defendant No. 1 was settled on 27th February 2025 and for the Defendants No. 2 to 5, the draft written statements were settled on 03rd March 2025 and all the written statements were finalized after some modifications and corrections on 13th March 2025. Thereafter, the written statements of Defendants No. 1 and 4 were notarized on 27th March 2025, and of Defendant No. 2 was notarized on 11th March 2025, of Defendant No. 3 was notarized on 28th March 2025 and of Defendant No. 5 on 26th March 2025.

6. Ms. Shah submits that the Applicants being under a *bona fide* belief that the subject-matter of the present suit was being amicably

settled have been unable to file their written statements in time and there has been a delay in filing the present proceedings, which is neither deliberate nor intentional and the Applicants have a good case on merits and an opportunity of defending the suit ought to be granted to them in the interest of justice.

7. Ms. Shah, relying on the decision of the Hon'ble Supreme Court in the case of *Kailash Vs. Nankhu & Ors.*¹ and the decisions of this Court in the case of *Bhambhani Shipping Ltd. in the matter between The Board of Mumbai Port Authority Vs. Halani Star & Ors.*² and *Western Pre Fab Pvt. Ltd. in the matter between Joana Rose Philomina Miranda & Ors. Vs. Western Pre Fab Pvt. Ltd.*³, submits that the power of the court to extend the time for filing the written statement beyond the time schedule provided by Order VIII Rule 1 of the Civil Procedure Code, 1908 (the "CPC") is not completely taken away and the delay can be condoned as the provision is held to be directory and not mandatory.

8. On the other hand, Mr. Ryan Dsouza, learned counsel appearing for the Respondent-Plaintiff has opposed the Interim Applications.

1 (2005) 4 SCC 480

2 Order dated 07th November 2025 in Interim Application No. 1489 of 2025 in Commercial Admiralty Suit No. 81 of 2021

3 2024 SCC OnLine Bom 436

9. Mr. Dsouza, submits that Applicants have not made out a case for sufficient cause for seeking condonation of delay of more than 2001 days in taking out these applications and filing the written statements. Mr. Dsouza, submits that the Applicants were duly served with a copy of the writ of summons on 29th August 2019, but no written statements had been filed within the period of 90 days and nor have the Applicants taken any steps on the lapse of statutory period to file the written statement.

10. Mr. Dsouza, further submits that when the matter was listed before the Ld. Prothonotary and Senior Master on 12th December 2024, the advocate for the Applicants made a statement that she will take out appropriate proceedings to file the written statements, however, no steps were taken by the Applicants for more than four weeks, and therefore the Respondent approached this Court on 22nd January 2025 and circulation was granted for 11th March 2025.

11. It is submitted that on 11th March 2025, the advocate for the Applicants again made a statement before this Court that he was in the process of taking out appropriate application for seeking condonation of delay in filing the written statements but as no application was filed till then the matter was adjourned to 3rd April 2025 for directions under

Order VIII Rule 10 of the CPC. Thereafter, the Applicants have filed the present Interim Applications No. 7635 of 2025, 7489 of 2025, 7633 of 2025 of 2025 and 7310 of 2025 on 27th March 2025 and Interim Application No. 7634 of 2025 on 01st April 2025.

12. Mr. Dsouza submits that the Applicants have submitted that the defamatory article published by the Applicants on 17th August 2017 was withdrawn with an understanding that the disputes between the parties would be resolved amicably when in fact the defamatory article was withdrawn pursuant to the statement made by the advocate for the Applicants before this Court in Notice of Motion No. 1952 of 2017 based on which order dated 02nd February 2018 was passed. Mr. Dsouza submits that the order does not record that the parties were in the process of resolving the issues amicably but that the suit shall be heard expeditiously, keeping all the rights and contentions of the parties open.

13. Mr. Dsouza submits that the Applicants have not submitted any draft proposal or any other document to show that the settlement discussions were initiated and therefore the contention of the Applicants that negotiations were under process is therefore untenable and vague as at no point in time, the Plaintiff was engaged in any

settlement talks and the settlement talks appear to be the internal matter of the Applicants which could not have precluded the Applicants from filing their written statements. Mr. Dsouza submits that the Applicants have not brought any material on record to show that the Applicants had taken any steps in the matter and as the Applicants have been negligent, and the delay on the part of the Applicants in filing the written statement is deliberate and intentional. Mr. Dsouza relying of the decision of the Hon'ble Supreme Court in the case of ***Basawaraj & Anr. Vs. Special Acquisition Officer***⁴ submits that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and therefore, the Interim Applications are liable to be rejected and dismissed with costs.

14. I have heard the learned Senior Counsel and the learned counsel and considered the rival contentions.

15. It is not in dispute that the unamended Order VIII Rule 1 of the CPC as applicable to non-commercial suits is directory and not mandatory and this Court has discretion to condone the delay. The outer timeline for filing the written statement in a non-commercial dispute is 90 days subject to the above discretion.

4 (2013) 14 SCC 81

16. In the facts of these cases, admittedly there has been a delay of more than 2001 days, the Writ of Summons having been served on 29th August, 2019. The reason proffered is that the Applicants were under a *bona fide* belief that the issue between the parties would be resolved amicably as the article dated 17th August 2017 in the Mumbai Mirror, Tabloid Edition, the Mumbai Mirror Website, Mumbai Mirror intermediary website links and any other medium wherein the article was published was pulled down. The Applicants have claimed that settlement talks / negotiations to amicably settle the matter were underway through intermediaries though the same has been denied by the Respondents. That it was only in December 2024, that their lawyers communicated to them that they will have to file their written statements. That thereafter as the Applicants had work exigencies, and the written statements could not be prepared immediately as the Applicants had called for the entire proceedings of the suit to go through and that after going through the proceedings and discussing issues the Applicants instructed their Advocate to prepare drafts. Then the draft written statement of Defendant No. 1 was settled on 27th February 2025 and for the Defendants No. 2 to 5 were settled on 03rd March 2025 and all the written statements were finalized after some modifications and corrections on 13th March 2025. Thereafter, the

written statements of Defendants No. 1 and 4 were notarized on 27th March 2025, of Defendant No. 2 on 11th March 2025, of Defendant No. 3 on 28th March 2025 and of Defendant No. 5 on 26th March 2025.

17. After having pulled down the purported defamatory article, being under the belief that the issue between the parties would be resolved amicably cannot be said to be a belief which is not *bonafide*, although the claim that two of the Applicants had approached intermediaries for initial talks to amicably settle and that the Applicants had submitted a draft proposal for settlement to the said intermediaries is not backed up or supported by any document nor any affidavit has been filed in the present proceedings nor are there any specific dates or particulars furnished in support thereof. The Applicants in the facts of this case cannot be said to be lax or negligent. However, as elucidated above, from the date of service of writ of summons on 29th August 2019 till December 2024 when the Applicants were intimated by their lawyers that written statements would have to be filed, although there is an explanation but since the same is not backed up by any supporting material, the same cannot be said to be fully satisfactory. The period from December 2024 till the notarization of the written statements, however, appears to have been explained.

18. The Hon'ble Supreme Court in the case of *Kailash vs. Nanku (supra)* has observed that the provisions of Order VIII Rule 1 of the CPC are directory and not mandatory but only in exceptional situations the court may extend the time for filing the written statement even though the time period for filing of written statement has expired.

19. This Court in the case of *Bhambhani Shipping Ltd. in the matter between The Board of Mumbai Port Authority Vs. Halani Star & Ors. (supra)* has relying on the decision of the Hon'ble Supreme Court in the case of *Kailash vs. Nanku (supra)* held that although there is no straight jacket formula but the extension of time in filing written statement is to be only by way of an exception and not in a case of laxity or gross negligence. And the Court may impose costs for dual purpose (i) to deter the Defendant from seeking any extension of time just for the asking and (ii) to compensate the Plaintiff for the delay and inconvenience caused to him.

20. In the facts of this case, the Suit seeking damages to compensate for the loss caused by the action of the Defendants claiming that the Defendants have injured the reputation of the Plaintiff by publishing a defamatory article dated 17th August 2017, does bring out an

exceptional situation, which the Defendants, in my view, would need to defend.

21. This Court in the case of *Western Pre Fab Pvt. Ltd. in the matter between Joana Rose Philomina Miranda & Ors. Vs. Western Pre Fab Pvt. Ltd (supra)*, has relying upon the decision of the Hon'ble Supreme Court in the case of ***Bharat Kalra Vs. Raj Kishan Chabra***⁵, held that a liberal, pragmatic, justice-oriented, non-pedantic approach bereft of technical considerations ought to be taken towards furthering substantial justice while condoning the delay and where the delay in filing the written statement could very well be compensated with costs, denying the benefit of filing written statement would be unreasonable. The delay in this case is not such as cannot be compensated by costs.

22. Therefore, although I am inclined to condone the delays in these matters, but not without balancing the situation, which I propose to do by imposing costs for the unsatisfactory explanation for the delay between the period of receipt of the writ of summons till December 2024.

23. Ergo the decision in the case of *Basawaraj & Anr. Vs. Special Acquisition Officer (supra)* relied upon by the Plaintiff/Respondent in

5 2022 SCC OnLine SC 613

my view does not assist the cause of the Plaintiff as the Hon'ble Supreme Court in the said decision has held that the expression 'sufficient cause' should be given a liberal interpretation to ensure that substantial justice is done, and whether or not sufficient cause has been furnished can be decided on the facts of a particular case and no straitjacket formula is possible.

24. This is not a case where the Defendants lack *bona fides* or that the grounds are fanciful or that the Defendants have been negligent or inactive.

25. In view of the above discussion therefore, the delay in filing the applications is condoned subject to payment of costs of Rs. 50,000/- in each of the Interim Application, by the Applicants/Defendants to the Respondent/Plaintiff within a period of four weeks from the date of uploading the order.

26. Subject to payment of costs as above, (i) the delay is condoned (ii) Registry is directed to accept the written statements.

27. The Interim Applications accordingly stand allowed and disposed as above.

(ABHAY AHUJA, J.)