

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.1266 OF 2015

M/s. Amar Agencies and others

.. Petitioners

Versus

State of Maharashtra and another

.. Respondents

Mr. B. G. Saraf, Advocate for the Petitioners.

Mrs. Vaishali Nimbalkar, AGP for the Respondent No.1.

Ms. Kavita Anchan, Advocate for Respondent No.2.

CORAM : R.M. SAVANT, J.

DATE : 20th JANUARY, 2015

PC.

1. The order dated 26th August, 2014 passed by the Learned Judge of the City Civil Court, Greater Bombay, by which order the Notice of Motion No.35 of 2013 filed by the Petitioners for condonation of delay of 3½ years for filing the written statement and for the written statement to be taken on record came to be rejected is taken exception to. The Respondent-Bank herein is the original Plaintiff who has filed the suit in question against the Petitioners for recovery of money on account of the loan advanced to the Petitioners. The suit was initially filed in this Court and a Learned Single Judge of this Court had directed the Petitioners to file their written statement on or before 18.11.2009 by order dated 30th

September, 2009. Thereafter the time to file the written statement was again extended by two weeks vide order dated 25.11.2009. However, in spite of the said extension granted, the written statement was not filed whilst the suit was pending in this Court.

2. On the pecuniary jurisdiction of the City Civil Court being enhanced, the suit came to be transferred to the City Civil Court in or about September, 2012 and it is thereafter in the year 2013 that the instant Notice of Motion No.1335 of 2013 came to be filed seeking condonation of delay in filing the written statement and for taking the written statement on record. The Trial Court has observed that the affidavit in support of the motion is bereft of any convincing reasons on the basis of which the time to file the written statement can be extended. The Trial Court has further observed that the Defendant No.1 i.e. the Petitioner No.1 herein is the partnership firm and the Defendants No.3 and 4 are the partners and though it was stated that the Defendant No.3 has expired, the details have not been mentioned. The Trial Court has therefore, concluded that no reasonable grounds have been put forth seeking condonation of the said delay of 3½ years. The Trial Court as indicated above, by the impugned order has rejected the Notice of Motion. In terms of the law laid down by the Apex Court, the time to file the written statement can be extended for good and sufficient reasons. In the

instant case, as rightly observed by the Trial Court that the application is bereft of any reasons on the basis of which the Court could have exercised discretion in favour of the Petitioners. In that view of the matter, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]