

Sequeira

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

WRIT PETITION NO. 6474 OF 2014

Shri Prabhakar Raosaheb Patil.

.. Petitioner

Vs

Sou.Kalpana Vijaysinh Desai & ors.

.. Respondents

Mr.S.R.Ganbavale, for the Petitioner.

Mr.S.G.Rajput, for Respondent No.1.

Mr.Sarang Pathak i/b Mr.Suraj Gothwal, for Respondent Nos.2 & 3.

***CORAM : N.M.Jamdar, J.
Thursday, 27 October 2016.***

P.C. :

Heard learned counsel for the parties. In view of the notice issued for final disposal on 29 September 2015, petition is taken up for final disposal as Respondents are served.

2. By the impugned order dated 12 March 2014, the learned Civil Judge Senior Division, Kolhapur has rejected the application for filing Written statement with delay of eight months. While issuing notice to Respondents, the learned Single Judge of this Court had directed Petitioners to deposit the amount of ₹ 3000 in this Court, which has been deposited.

3. The Apex Court has clarified in the case of *Salem Advocate Bar Association, T.N. Vs Union of India – (2005) 6 Supreme Court*

Cases 344, that time limit stipulated for filing written statement is not inflexible and in the given circumstances the Court can extend the time. In the present case the Petitioner has stated that he was travelling on a religious tour and also that there was strike of the advocates. Though the learned Judge was right in holding that the strike of advocates cannot be a justifiable reason but since the Petitioner has deposited the costs of ₹ 3000 and that reason of being on a religious tour cannot be stated to be impossible contingency, I am of the opinion that indulgence can be granted to the Petitioner with the costs of ₹ 10000. The cost of ₹ 10000 shall be inclusive of the amount of ₹ 3000 already deposited. Accordingly, the Writ Petition is disposed of by quashing and setting aside the impugned order passed on 12 March 2014. The Petitioner will file Written statement within period of four weeks from today. The Petitioner will deposit the cost of amount of ₹ 7000 in the District Court, Kolhapur within period of three weeks from today. The Respondents-Plaintiffs will be entitled to withdraw both the amounts, i.e. ₹ 3000 deposited in this Court and also the amount of ₹ 7000 to be deposited by the Petitioner. Since the proceedings have been delayed due to the fact that the Petitioner has not filed Written statement if Respondents-Plaintiffs makes an application, the learned Civil Judge Senior Division Kolhapur, will keep this aspect in mind and take up the suit for disposal on priority.

(N.M.Jamdar, J.)