

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

**CIVIL APPLICATION NO.2326 OF 2016
IN
WRIT PETITION NO.7479 OF 2016**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. Jitendra M. Pathade, Advocate for Applicant.

Mr.D.B. Sawant, Advocate for Respondent.

CORAM: R.G.KETKAR, J.

DATE : 26/08/2016

PC:

1. Not on Board. At the request of Mr Pathade, taken up in production Board. Heard Mr.Jitendra Pathade, learned counsel for the applicant and Mr.D.B.Sawant, learned counsel for the respondent.

2. This is an application for extension of time stipulated in the order dated 23.6.2016 passed in Civil Revision Application No.725 of 2015.

3. By order dated 23.6.2016, Civil

Revision Application was allowed and the applicant was given four weeks time to file written statement from the date of the order by giving advance copy to other side. It was made clear that in case the defendant did not file written statement withing four weeks, the interim order shall stand revived without further reference to the court.

4. Mr. Pathade submitted that the time stipulated in the order dated 23.6.2016 expired on 21.7.2016. He submitted that the written statement of the defendant is affirmed on 25.7.2016. He submitted that because of medical condition of his wife, the delay in filing the written statement deserves to be condoned. He invited my attention to medical certificate dated 28.7.2016 issued by Dr. Chanchal Nagpal attached to Sadhu Vaswani Mission's Medical Complex, Pune. He, therefore, submitted that the application may be allowed and written statement may be taken on

record.

5. On the other hand hand, Mr Sawant strenuously opposed the application. He submitted that the only reason given is ill-health of applicant's wife. She was under treatment of Dr. Chanchal Nagpal from 30.4.2016 to 10.5.2016. However, there is no explanation given by the applicant as to why after 10.5.2016 written statement could not be filed within the stipulated period. He, therefore, submitted that no case is made out for enlarging the time stipulated in the order dated 23.6.2016.

6. I have considered the rival submissions advanced by the learned counsel appearing for the parties. I have also perused the material on record. By order dated 23.6.2016, the applicant was given four weeks time to file written statement. Period of four weeks expired on 21.7.2016. Along with the application, the applicant has enclosed written statement which is duly verified

on 25.7.2016. In view thereof, in my opinion, interest of justice will be served by permitting the applicant to file written statement by enlarging the time. Mr Pathade assures that written statement annexed to this application and which was verified on 25.7.2016 shall be tendered in the trial Court within one week from today.

7. In view thereof, Civil Application is allowed in terms of prayer clause (a). Time stipulated in the order dated 23.6.2016 is extended upto and inclusive of 2.9.2016. The applicant shall file written statement on or before 2.9.2016. Civil Application is allowed in the aforesaid terms with no order as to costs.

(R.G.KETKAR,J.)