

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11268/2015

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. Suraj Kudalkar for the petitioner
Ms. Namrata Jain i/b. Dastur Kalambi & Associates
for the respondent No.2.

CORAM : K. K. TATED, J.

DATE : JULY 12, 2016

P.C.:

1. Heard. The learned counsel for the petitioner submits that they served respondent No.1 by private notice. To that effect, he filed an Affidavit of service. Same is taken on record. In spite of service, none appeared for the respondent No.1.

2. By this petition under Article 227 of the Constitution of India the Petitioner plaintiff challenges the order dated 12.10.2015 passed by the Bombay City Civil Court, Mumbai by which the Trial Court refused to extend the time to carry out appropriate amendment in the plaint as per order dated 28.09.2015 in Chamber Summons No.1453/2015 on the ground that the plaintiff failed to carry out appropriate amendment within

stipulated time. The learned counsel for the petitioner submits that immediately after passing the order dated 28.09.2015, the plaintiff had gone to his native place for his personal work and therefore, there was delay to take appropriate steps to carry out amendment in the plaint as per order dated 28.09.2015 in Chamber Summons No.1453/2015. He submits that this Hon'ble Court be pleased to condone the delay in carrying out amendment in the plaint as per order dated 28.09.2015. He further submits that even the respondent No.1 has no objection to carry out amendment.

3. On the other hand, the learned counsel for the respondent No.2 also makes a statement that they have no objection, if time is extended to carry out amendment in the plaint.

4. Considering the submissions made by the learned counsel for the petitioner and as the advocate for respondent No.2 has no objection to allow the plaintiff to carry out appropriate amendment in the plaint, I am satisfied that the petitioner has made out a case for allowing the present Writ Petition.

5. Hence, the following order:

a) Order dated 12.10.2015 passed by the Trial Court is set aside to the extent that “the said order has been infructuous”.

b) The petitioner plaintiff is allowed to carry out amendment in the plaint as per order dated 28.09.2015 in Chamber Summons No.1453/2015 within 3 weeks from today, failing which the Chamber Summons shall stand dismissed without further reference to the court.

c) Writ Petition stands disposed of accordingly.

JUDGE