

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

WRIT PETITION NO. 193 OF 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. Sachin Gite for the Petitioner.

Mr. Sandeep Shinde for the Respondent.

CORAM : K. K. TATED, J.

DATED : 27/07/2016

PC.:

. Heard learned Counsel for the petitioner.

2 Adv. Sandeep Shinde states that he received instructions to appear on behalf of respondents plaintiffs. He undertakes to file vakalatnama within two weeks from today. Undertaking is accepted.

3 By this petition under Article 227 of the Constitution of India the Petitioner defendant challenges the order dated 01.10.2014 passed by Joint Civil Judge, Senior Division, Niphad below Exh.19 in Special Civil Suit No. 111 of 2013 by which the defendant's application for condonation of 180 days delay in filing written statement stands rejected.

4 In the present proceeding, the summons was served on defendants on 13.12.2013. Thereafter the defendant filed application below Exh. 111 on

20.09.2014 for condonation of delay. In the said application, the defendant pleaded that he was suffering by blood sugar and to that effect he has placed on record medical certificate dated 18.09.2014 issued by Shri Hari Hospital, Pimpalgaon (Basvant), Taluka Niphad, Dist. Nashik.

5 In the medical certificate, Doctor certified that defendant was taking treatment from 25.07.2014 till the date of certificate i.e. 18.09.2014. It is to be noted that summons was served on defendant on 13.12.2013 and as per provision of Code of Civil Procedure, 1908 written statement to be filed within 90 days i.e. last date for filing written statement was 12.03.2014. There is no explanation in the application for condonation of delay for the period from 13.03.2014 till filing of application below Exh. 111. If delay is not explained then there is no question of passing any favourable order in favour of defendant allowing him to file his written statement. These facts were considered by the Trial Court in paragraph 3 of the impugned order.

6 Considering these facts, I am of the opinion that defendant failed to make out any sufficient cause for condonation of 180 days delay in filing the written statement. Defendant relied on medical certificate issued by Shri Hari Hospital that also shows that defendant was taking treatment from

25.07.2014 i.e. before the expiry of date of filing of written statement.

7 Considering these facts, I do not find any reason to entertain the present Writ Petition.

8 Hence, Writ Petition stands rejected.

9 Interim relief, if any, granted earlier to continue for 8 weeks from today.

(K.K.TATED, J.)