

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3346 OF 2014

Smt. Hirabai B. Pasalkar & Another .. Petitioners.
v/s.
Cdr. Dipak D.Naik .. Respondent.

Mr. Gaurang C. Jhaveri i/b. Vandana Bait, for the Petitioner.
Mr. Priten P. Killedar, for the Respondent.

CORAM: M.S.SANKLECHA, J.
DATE : 18th SEPTEMBER, 2017.

P.C:-

This Petition under Article 227 of the Constitution of India, takes exception to the order dated 21st August, 2013 passed by the Civil Judge, Senior Division, Pune. The impugned order rejects the Petitioner's application for condonation of delay in filing Written Statement.

2 On 3rd April, 2014, this Court had issued notice and in the meantime, had stayed the trial.

3 The impugned order dated 21st August, 2013 reads as under:-

“ Read the application and say given by the plaintiff. I have gone through the papers on record and so also the contention in the application. There is inordinate delay caused by the defendants for filing of written statement. However, the present application is for condonation of delay. After scrutiny of the contention in the application, it appears to me that no satisfactory reason is given by the defendants so as to condone the delay. So as to consider that the defendant was prevented by the reason to file written statement in the Court and, therefore, according to me, it is not proper to consider the application, hence order.

Order

Application is rejected.”

4 The impugned order does not indicate any consideration of the reasons made out for the delay by the Petitioner. It merely states that it appears that no satisfactory reasons is given by the Petitioner (Original Defendant) to condone the delay in filing the written statement.

5 The impugned order is non-speaking order. Any order passed by a judicial authority, including an order rejecting an application for condonation of delay, must indicate some consideration of the explanation for the delay. This consideration is only manifest by the order, stating the reasons for accepting or not accepting the reasons. These reasons may not be very elaborate but must at the very minimum indicate the reasons why the explanation offered for the delay, is satisfactory or not.

6 In the above view, impugned order dated 21st August, 2013 is quashed and set aside. Application for condonation of delay is restored to the Civil Judge, Senior Division, Pune for fresh consideration and disposal by a speaking order.

7 **Petition disposed of** in the above terms. No order as to costs.

(M.S.SANKLECHA,J.)