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

WRIT PETITION NO. 1179 OF 2017

Mr. Rameshkumar Bhagwatiprasad Dubey. ... Petitioner.

V/s.

Mrs. Kamal Punaji Patil. ... Respondent.

Mr. R.R. Salvi i/b. Robin Thomas for the Petitioner.

Mr. Vikas Kolekar for Respondent.

CORAM : N.M. Jamdar, J.

25 January, 2017.

Oral Order :-

Not on board. Taken on production board by way of praecipe.

2. Heard learned Counsel for the parties. By the impugned order the application filed by the Applicant for condonation of delay in filing an Appeal against the judgment and decree passed by the learned Civil Judge, Thane has been rejected. By the judgment and decree impugned in the Appeal, the Applicant has been directed to

hand over possession of the suit premises. The learned Counsel for the Respondent submitted that even though the Respondent has good case on merits to sustain the impugned orders to avoid any further delay which may entail due to adjudication of this Writ Petition, if the Appeal is expedited and the compensation as directed by the Trial Court deposited by the Applicant, is permitted to be withdrawn by the Respondent, then the Court may consider condoning the delay.

3. In view of the stand taken by the learned Counsel for the Respondent the impugned order dated 6 December 2016 is quashed and set aside and the Application filed by the Applicant bearing Misc. Application No. 103 of 2016 in the District Court, Thane is allowed. The Applicant will deposit the arrears of compensation as directed by the Trial Court in the District Court, Thane within period of four weeks from today. Upon deposit of this amount, the Respondent is permitted to withdraw the same subject to the outcome of the Appeal. Considering the fact that the Applicant has approached the District Court with delay and that a fair stand is taken by the learned Counsel for the Respondent, the learned District Judge will make an endeavour to give priority to the hearing of this Appeal and dispose off the same within period of one year from today.

4. The Writ Petition is disposed off in the above terms. It is clarified that as far as the grant of interim relief is concerned, it will be open to the learned District Judge to consider the same on such terms and conditions as the learned District Judge thinks fit. The parties will appear before the learned District Judge on 8 February 2017.

(N.M. Jamdar, J.)