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

WRIT PETITION NO. 7202 OF 2017

Anil Kainya	...	Petitioner
V/s.		
HDFC Standard Life Insurance Co.Ltd	...	Respondents

Ms. Gayatri Sharma i/by M/s S. K.
Shrivastav & Co., for the Petitioner
Ms. Rachika Dave I/by Asim Vidyarthi, for
the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 19th DECEMBER, 2017.

P.C. :

1] Heard learned counsel for petitioner and learned counsel
for the respondents.

2] By this writ petition, the petitioner is challenging the
order dated 6th February, 2017, whereby the Chamber Summons
taken out by the petitioner for setting aside the order of “no W.S.”
came to be dismissed.

3] The reasons given are that there was inordinate delay and
the delay was not satisfactorily explained. However, having regard to
the substantive cause of justice which always requires that both the
parties should be given a reasonable opportunity to put up their

respective cases on merit so that the matter can be decided finally and effectively between the parties, this Court is of the opinion that subject to imposing of certain costs, the petitioner be allowed to file his written statement so that the matter before trial Court will be decided on merits.

4] Having regard to the fact that there is delay of 3 ½ years in filing of written statement, it would be just and proper to allow the Chamber Summons subject to imposing costs of Rs.30,000/- for setting aside the order of s “no W.S.”

5] Accordingly Writ Petition is allowed. The impugned order passed by the trial Court, dismissing the petitioner's Chamber Summons for setting aside the order of “no W.S.” is quashed and set aside.

6] In consequence, the Chamber Summons is allowed and the order of “no W.S.” is set aside, subject to petitioner's depositing or paying costs of Rs.30,000/- to the respondents, within 2 weeks from the date of receipt of this order..

7] Parties to act on the authenticated copy of this order.

8] Writ Petition is disposed of in above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]