

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

WRIT PETITION NO. 5698 OF 2017

Satej Satish Thakur

...Petitioner

Versus

Bank of Baroda & Anr.

...Respondents

.....

Mr.Omkar Nagvekar i/b. Prabha U.Badadare for the Petitioner.
Mr. Anant B. Shinde for Respondent No.1.

.....

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: AUGUST 01, 2017**

P.C. :

1. Upon urgent mentioning, taken on Production Board.
2. Rule. Rule made returnable forthwith. By consent, Petition is heard finally and disposed of at the stage of admission.
3. This Writ Petition is directed against the order dated 16.03.2017 passed by the learned 8th Jt. Civil Judge, Senior Division, Thane, below Exhibit 34 in Special Civil Suit No. 715 of 2014 thereby rejecting the application filed by the petitioner/defendant to set aside 'No Cross' order and to accept the costs of Rs. 500/-.

4. The learned counsel for the petitioner has submitted that on 07.12.2016 the petitioner filed an application for setting aside 'No Cross' order dated 06.12.2016. The said application was allowed, subject to payment of costs of Rs. 500/-. He has further submitted that as the petitioner was in jail at the relevant time and therefore, the cost could not be paid by him. Again, the petitioner filed the application below Exhibit 34 for setting aside ' No Cross' order. The said application was rejected by order dated 16.03.2017 and therefore, this Petition is filed.

5. The learned counsel for respondent no.1- Bank while opposing this Petition has submitted that the Suit be expedited, as it is pending since 2014.

6. Perused the order dated 16.03.2017. It appears that the petitioner/defendant did not remain present on the date when the order was passed. It is further contended that the petitioner/defendant was in the jail at the relevant time and therefore, he could not deposit the costs of Rs. 500/- within time.

7. In view of the above submissions, I allow this Petition with following order:

ORDER

- (i) Rule made absolute in terms of prayer clause (a) of the Writ Petition, subject to payment of costs of Rs.1,000/-. The said costs is to be deposited in the trial Court on or before 07.08.2017.
 - (ii) The trial Court to proceed with the matter and try to endeavor to finish the matter on or before 30.11.2017.
 - (iii) Parties to cooperate with the trial Court and submit the list of the witnesses and not to seek adjournment.
8. Writ petition is disposed of accordingly.

(MRIDULA BHATKAR, J.)