

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 8978 OF 2016

Merwan Feroze Cama ... Petitioner
Vs.
Parmeshwar Mittal & Ors. ... Respondents

Mr. Kuldeep S. Patil, Advocate for the petitioner.
Mr. Kesri Dastoor i/b. Phoenix Legal, Advocate for the respondents.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **21st April, 2017.**

P.C.:

This Writ Petition filed by the petitioner/original plaintiff under Article 227 of the Constitution of India is directed against the order dated 16th June, 2016 passed by the learned Civil Judge, Senior Division, Pune thereby allowing the respondents/defendants to file written statement.

2. The learned counsel for the petitioner has submitted that the order passed by the trial Court is to be set aside, as the learned trial Judge has not considered that there was delay of 8 to 9 days in filing the written statement and the written statement was not coupled with the application for condonation of delay. He submitted that the petitioner/plaintiff has taken objection for taking written statement on

record in the year 2011, however, no steps are taken.

3. The learned counsel for the respondents/original defendants while opposing this Writ Petition gave the chronology of the suit events. He submitted that according to defendants/respondents, there was no delay in filing the written statement, as the documents which were required to be filed along with the plaint were filed on 9th September, 2010 and the suit was filed on 19th August, 2010. He submitted that from 9th September, 2010 the period of 90 days is counted and further extension to file written statement was given from time to time and the written statement was filed on 7th December, 2010, which was well within the time and there is no need of filing an application for condonation of delay.

4. The record states that the suit was filed on 19th August, 2010. The Writ of summons was received on 2nd September, 2010. The respondents/defendants appeared and filed Vakalatnama in the suit on 6th September, 2010. Thereafter, as per the case of the respondents/defendants, the documents of the petitioner/plaintiff were received by the respondents/defendants on 9th September, 2010 and he filed written statement on 7th December, 2010.

Considering this chronology of the events, the learned trial Judge rightly did not pass No WS order and has allowed the written statement to be filed. There is no merit in this Petition. Hence, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)