

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

WRIT PETITION NO. 3894 OF 2018

Vyankatesh Eknath Vyavahare ... Petitioner
Versus
Ghansham Eknath Vyavahare and others ... Respondents

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Mr. V. S. Talkute for the Petitioners.
Mr. Shankar Katkar a/w Ms. Manisha A. Devkar for Respondent
No.1.

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CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 5th JULY, 2018.

P. C.:

1. This Petition is directed against the order dated 30th January, 2018 below Exhibit-51/A passed by the learned District Judge-3, Pandharpur thereby rejecting Misc. Civil Application No. 133 of 2015 for condonation of delay of filing Misc. Civil Appeal.

2. Learned Counsel for the Petitioner submits that the Plaintiffs have filed Misc. Civil Appeal for injunction, in which interim order of injunction was granted in favour of the Plaintiffs, though the Petitioner-Defendant has not filed reply. Learned Counsel submits that the order of interim injunction was passed exparte and it is as good as decreeing the suit. He submits that the Petitioner-

Defendant was advised to file counter claim and also application for injunction in the said counter claim. As per the legal advice given to him, the application of the Plaintiff for interim injunction was decided on 30th July, 2012. Immediately on 28th August, 2012 the Defendant filed the counter claim and application praying interim injunction i.e. at Exhibit-32. The said application was rejected in the year 2015 and thereafter, he filed Appeal No. 82 of 2015 against the said order. However, it was realised by the Petitioner-Defendant that the earlier order dated 31st July, 2012 granting interim relief in favour of the Plaintiffs remained to be challenged and therefore he filed Misc. Application alongwith application No. 133 of 2015 for delay condonation. He submits that the said application was rejected by the District Judge and that is to be set aside.

3. Learned Counsel for the Respondent while opposing this writ petition has submitted that the learned District Judge has not only dismissed the Misc. Application for condonation of delay but also dismissed the appeal, which is filed by the Petitioner-Defendant against dismissal of application for interim relief against the Plaintiff in counter claim.

4. Considered the submissions. Perused the impugned order of the learned District Judge. The Petitioner seeks the Court to condone the delay of three years, two months and 13 days. The learned District Judge has rightly held that the reason given by the Petitioner is flimsy and unacceptable. The order is very well written and with good reasons.

5. The Writ Petition is rejected.

6. The suit is expedited. The trial Court to proceed with the matter. All the parties to cooperate.

(MRIDULA BHATKAR, J.)