

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

WRIT PETITION (ST.) NO. 24186 OF 2017

Mariba Muralidhar Waghmare & Ors.	...	Petitioners
V/s.		
Mhasoba Devasthan & Ors.	...	Respondents

- Mr.Mahadeo A. Choudhari for the Petitioners.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 27th APRIL, 2018.

P.C. :

1] Heard learned counsel for the Petitioners.

2] This Writ Petition is preferred against the order dated 19th July, 2017, passed by the 2nd Jt. Civil Judge, Junior Division, Madha, below the Application at Exhibit-14 in Regular Civil Suit No.274 of 2016.

3] The Application at Exhibit-14 was preferred by the present Petitioners/Defendant Nos.1 to 3 before the trial Court for condonation of delay in filing written statement. The trial Court has however rejected the same on the count that there is delay of six months and

no satisfactory explanation was given for the said delay.

4] It is true that the provisions of Order-8 Rule-1 of the Code of Civil Procedure mandate that the written statement has to be filed within a period of 30 days, which can be extended upto 90 days. However, as held by the Apex Court from time to time, these provisions are not putting any restrictions on the Court to accept the written statement by condoning the delay; even after statutory period, if the reason is made out so that the matter can be decided on merits subject to putting some costs on the party.

5] Here, in the case, the reason given is that the Petitioners required to collect some documents from the office of the Tahsildar for filing the written statement. In view thereof, in my considered opinion, in order to advance substantive cause of justice and to ensure that the matter is decided on merits completely and effectively, the Petitioners are required to be allowed the permission to file written statement by condoning the delay. However, it would be subject to the payment of costs of Rs.3,000/- (Rs. Three Thousand only) to be paid to the Respondents.

6] Writ Petition is accordingly allowed. The impugned order passed by the trial Court is set-aside. The Application filed by the

Petitioners at Exhibit-14 for condonation of delay is allowed and the Petitioners are permitted to file written statement subject to payment of costs of Rs.3,000/- to the Respondents within the period of two weeks from receipt of the order by the trial Court.

[DR.SHALINI PHANSALKAR-JOSHI, J.]