

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

WRIT PETITION NO. 11938 OF 2016

Surekha Subhash Sakpal & Ors.	...	Petitioners
V/s.		
Sow.Rajani Bharat Thakur & Ors.	...	Respondents

- Mr.Sachin B. Thorat for the Petitioners.
- Mr.Suresh D. Barne a/w. Ms.Pushpa Deshmukh for Respondent Nos.6, 8, 9 & 10.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 6th MARCH, 2018.

P.C. :

1] Heard learned counsel for the Petitioners and the Respondents.

2] By this Writ Petition, filed under Article 227 of the Constitution of India, the Petitioners are challenging the order dated 15th March 2016 passed by the Civil Judge Junior Division, Karjat, below Exhibit-38 in Regular Civil Suit No.148 of 2013.

3] The Application at Exhibit-38 was filed by the Original Defendant Nos.2, 3 and 4 for condoning the delay which has occurred in filing the written statement and for permission to file the written

statement. The trial Court has rejected the said application having regard to the casual manner in which it was filed and without giving sufficient reason for condonation of such delay.

4] Therefore, as a matter of fact, no interference is warranted in the impugned order passed by the trial Court, but then in the interest of substantive cause of justice, with object that the suit should be decided on merits instead of on any technical ground, as it will avoid the multiplicity of the proceedings and as the trial has not yet commenced, only in the interest of justice, the application needs to be allowed; however, it is subject to the heavy costs.

5] Therefore, the Writ Petition is allowed. The impugned order passed by the trial Court is quashed and set-aside. The Petitioners are permitted to file the written statement subject to payment of costs of Rs.15,000/- to the Respondents/Plaintiffs. The costs to be paid within two weeks from the receipt of this order by the trial Court. In case of failure to pay the costs to the Respondents within stipulated period, this order will stand automatically vacated.

[DR.SHALINI PHANSALKAR-JOSHI, J.]