

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1704/2018

Naeemuddin S. Khan	... Petitioner
V/s.	
Yasmeen Amir Bux & Ors.	... Respondents

Mr. Pramod Bhosale I/b. Kavita Shinde for the Petitioner
Mr. Abbas Zaidy I/b. Jahair H. Zaidy for Respondent Nos.1 to 5.

CORAM: K.K. TATED, J.
DATED : DECEMBER 5, 2018

P.C. :

1 Heard. By this petition under Article 227 of the Constitution of India the Petitioner challenges the order dated 15.07.2017 passed by the Judge, Bombay City Civil Court in Notice of Motion No.4472/2017 in S.C.Suit No.9781/1991 (High Court Suit No.342/1991) dismissing the Petitioner's Application for allowing them to file written statement by condoning the delay.

2 After arguing for some time, both the counsel submit that the petition can be disposed of with liberty to the Petitioner to file their written statement in S.C.Suit No.9781/1991 on or before 22.12.2018 on payment of cost of Rs.20,000/- to Respondent Nos.1 to 6 and matter may be decided on merits. Both the counsel filed minutes of order dated 05.12.2018 duly signed by the advocate for the Petitioner as well as the advocate for Respondent Nos.1 to 6 along with Respondent No.1. Yasmin Bux. Same is taken on record and marked "X" for identification. Same is accepted.

“MINUTES OF ORDER

1. The Petitioner has paid Rs.20,000/- as costs to the Respondent Nos.1 to 6.

2. The Petitioner undertakes to file written statement on or before 22.12.2018.

3. The Respondent No.1, who is present in Court on behalf of Respondent Nos.1 to 6, has no objection for this Writ Petition to be allowed as the Petitioner has paid the above mentioned costs.”

3 In view of these facts, following order is passed.

a. Order dated 15.07.2017 passed by the Judge, Bombay City Civil Court in Notice of Motion No.4472/2017 in S.C.Suit No.9781/1991 (High Court Suit No.342/1991) is set aside.

b. Notice of Motion No.4472/2017 filed by the Petitioner Defendant NO.3 is allowed to the extent that Defendant No.3 is permitted to file written statement on or before 22.12.2018 with copy to other side.

c. The Petitioner to pay cost of Rs.20,000/- to the Respondent / original Plaintiff.

d. The statement made by the Respondent that she received the cost, is accepted.

e. The Trial Court is directed to decide S.C.Suit No.9781/1991 (High Court Suit No.342/1991) on merit after hearing both sides.

- f. Hearing of the S.C.Suit No.9781/1991 (High Court Suit No.342/1991) is expedited.
- g. This court expects that the Trial Court would decide the said suit as early as possible but in any case by the end of December 2019.
- h. The Writ Petition stands disposed of accordingly.

(K. K. TATED, J.)