

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11574 OF 2014

Pradeep L. Bandekar	...Petitioner
V/s.	
Kalpana A. Khandarkar & Anr.	...Respondents

Mr.Sameer Bhalekar i/b Mr.Abhay D. Parab for the Petitioner.

None for the Respondent No.1.

Mr.Vishal S. Tambat for the Respondent No.2.

CORAM : R.D. DHANUKA, J.
DATE : 29TH OCTOBER, 2018.

P.C. :-

1. None appeared for the respondent no.1 when the matter was called out. Learned counsel appearing for the respondent no.2 states that the loan given by his client is already repaid and all the original documents are already handed over back to the borrower – respondent no.1 and thus his client is no more concerned with the matter. The statement is accepted.

2. By this petition filed under under Article 227 of the Constitution of India, the petitioner has impugned the order passed by the learned Trial Judge dated 9th September, 2014 dismissing the application filed by the petitioner for condonation of delay and for

setting aside the order of dismissal of the suit for default.

3. I have heard learned counsel for the petitioner and have perused the application filed by the petitioner before the learned Trial Judge and also the impugned order passed by the learned Trial Judge. The petitioner could not remain present before the learned Trial Judge due to unavoidable circumstances stated in the application filed by the petitioner and the delay caused in making the application and for setting aside the order also due to unavoidable circumstances. I am satisfied that the petitioner has made out a case for condonation of delay of 96 days and for setting aside the order passed by the learned Trial Judge dismissing the suit for default.

4. For the reasons recorded in the application filed by the petitioner for condonation of delay and for setting aside the order of dismissal of suit for default, the impugned order dated 9th September, 2014 is quashed and set aside. The application filed by the petitioner for condonation of delay and for setting aside the order of dismissal of suit is allowed.

5. The writ petition is allowed in aforesaid terms. There shall be no order as to costs.

(R.D. DHANUKA, J.)