

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4563 OF 2019

The Karad Urban Co-operative Bank Ltd. .. Petitioner

Vs.

Shri Vijaysing Baldeosing Pardeshi and ors. .. Respondents

Mr. Shekhar Jagtap a/w Ms. Sairuchita Chowdhary i/b J. Shekhar & Co., for the Petitioner.

Mr. Paras D. Yadav, for the Respondent No.1.

Mr. Kedar P. Lad, for Respondent No.4.

CORAM : M.S.KARNIK, J.

DATE : 24th SEPTEMBER 2019

P.C. :

. Heard learned Counsel for the petitioner.

2. Learned Counsel for respondent No.1 states that he would be filing vakalatnama within one week from today.

3. The petitioner is original defendant No.3. The trial Court by order dated 05/12/2017 rejected the application Exhibit 48 filed by defendant No.3 seeking relief to set aside 'NO WS' order passed on 05/08/2015 after the delay of 1 year 11 months. The petitioner – defendant No.3 filed application for

setting aside 'NO WS' order.

4. Learned Counsel for the plaintiff opposes the Petition. According to him, the order passed by the trial Court calls for no interference. He invited my attention to the reasons given by defendant No.3 in the application. He would submit that reasons are not at all satisfactory. He would further submit that defendant No.3 being a Bank should have been diligent in filing the written statement within time.

5. In the application - Exhibit 48, defendant No.3 has stated the reason that officers of the Bank are transferred frequently and therefore there was delay in filing the written statement. The reason does not appear to be very satisfactory. However, as it is the case of defendant No.3 that property in question was mortgaged to the defendant No.3 Bank, in the interest of justice, defendant should not be deprived of an opportunity to defend the Suit only on the ground of delay on their part to file written statement within time. The period of

delay is not so gross that it does not deserve to be condoned even by imposing cost. The inconvenience caused to the plaintiff can be adequately compensated with cost. The Suit is for declaration and injunction.

6. In this view of the matter the impugned order is set aside subject to defendant No.3 paying cost of Rs.10,000/- to the plaintiff. Out of this Rs.10,000/-, defendant No.3 to pay Rs.5,000/- as cost to the plaintiff and balance amount of Rs.5,000/- to Kolhapur Disaster Management Group Trust, Kolhapur C/o. Kolhapur Chamber of Commerce & Industries, Opp.Hem Kiran Diesel, Rajaram Road, Kolhapur. Cost to be paid within a period of 4 weeks from today. Application Exhibit 48 is allowed. Written statement to be filed within 2 weeks from the date of uploading of the order.

7. Writ Petition is allowed in the above terms.

(M.S.KARNIK, J.)