

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

WRIT PETITION NO.4778 OF 2016

Vijay Prabhakar Joshi

... Petitioner

Vs

Taranjit Singh

s/o. Santok Singh Grover

... Respondent

...

Ms. Premlata Jain for the Petitioner.

Mr. Mohan Tekavade with Pinttu R. Chaurasia for the
Respondent.

CORAM : SANDEEP K. SHINDE J.

DATE : JUNE 14, 2019

P.C. :

Petitioner is Chartered Accountant, against whom respondent instituted Suit No.6473 of 1999 in the High Court in its Original Civil Jurisdiction, on 15th October, 2008. This Court was pleased to grant 'unconditional leave' to defend the suit with direction to file the Written Statement, within eight weeks from the date of the order. The suit was transferred to the City Civil Court, Mumbai on 1st October, 2012 on account of enhancement of limit of pecuniary jurisdiction of the City Civil Court.

2 Petitioner neither filed the Written Statement, within

eight weeks nor sought extension of time, to file the Written Statement.

3 On 3rd February, 2014, the Petitioner moved an application (Notice of Motion) seeking condonation of four years delay in filing Written Statement. Trial Court rejected the application on 17th November, 2015, having found that '*Sufficient Cause*' was not shown. The order declining to condone the delay is under challenge in this Petition under Article 227 of the Constitution of India.

4 The learned counsel for the petitioner submits that petitioner's earlier advocate was not diligent in taking steps and, therefore, Written Statement could not be filed. She further submits that the petitioner was busy in inter-mediate proceedings and, therefore, could not file Written Statement.

5 Neither of these grounds, which were also urged before the Trial Court were accepted. It may be stated that the petitioner is Chartered Accountant and on his own saying since he was busy in inter-mediate proceedings in this suit and, therefore, could not file Written Statement is contradictory to another ground that his

advocate was not diligent in taking steps.

6 Be that as it may, grounds which were urged for condoning the delay having found not sufficient, in my view, this Court cannot sit in appeal in exercise of its supervisory jurisdiction over the findings recorded by the learned Trial Court, while declining to condone the delay. Even otherwise, the delay is more than four years caused in filing Written Statement.

7 Petition deserves no consideration. It is dismissed, with no order as to costs.

(SANDEEP K. SHINDE, J.)