

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 9472 OF 2019**

Diamond Technical Industries ... Petitioner
Vs.
Director Gen. and Inspector Gen. of Police & Ors. ... Respondents

Ms.Flavia Fernandes i/b. Mr.Ajay Basutkar for Petitioner.
Mr.A.R. Metkari, AGP for Respondent Nos.1 to 3-State.

CORAM : A.S. GADKARI, J.
DATE : 9th March 2020.

PC. :

1] By the present Petition under Article 227 of the Constitution of India, the petitioner-original plaintiff has impugned Order dated 15th October 2018 passed in Notice of Motion No. 786 of 2017 in Disposed of Suit No. 2726 of 2012, by the learned Judge of the City Civil Court, Gr. Mumbai, thereby rejecting the said Notice of Motion for condonation of delay and for restoration of the said Suit which was dismissed for non prosecution on 23rd October 2013.

2] Heard learned counsel for the petitioner and learned AGP for respondent Nos.1 to 3-State. Perused the record.

3] The record indicates that, the petitioner had filed Summary Suit before this Court and the same was transferred to the City Civil Court on 3rd

October 2012, in view of enhancement of pecuniary jurisdiction. It appears that, the plaintiff remained absent at-least on three consecutive occasions and therefore, the Trial Court dismissed the said Suit on account of non prosecution by its Order dated 23rd October 2013. The present Notice of Motion No. 786 of 2017 for restoration of the said Suit was filed in the month of June 2016 without mentioning therein the actual days of delay caused in filing it. As per the submission of learned counsel for the petitioner-plaintiff, there is a delay of about two years and eight months in filing the said Notice of Motion.

4] Perusal of Affidavit in support of Notice of Motion would indicate that, no sufficient explanation, least to say, satisfactory explanation has been offered by the plaintiff for condonation of such an inordinate delay. Learned counsel for the petitioner submitted that, the earlier Advocate on record did not inform the plaintiffs about transfer of the Suit to the City Civil Court and thereafter, it was dismissed for non prosecution.

5] It is to be noted here that, it is the equal duty of the litigant/client to follow up its own matter before the concerned Court and the litigant cannot be permitted to raise a spacious plea that his/her Advocate did not do the needful. The litigant cannot be allowed to raise a plea that, once an Advocate is appointed, it is the duty of the concerned Advocate, from drafting of the pleadings till recording of evidence or even to take care of his matter till its final disposal.

6] In view of the above, I find no merits in the Petition.
Petition is accordingly dismissed.

(A.S. GADKARI, J.)

Omkar S.
Kumbhakarn

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