

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3091 OF 2019

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Mr. Nitin Pralhad Shinde

..Petitioner

Versus

HDFC Life Insurance Co. Ltd.

..Respondent

Mr. Anoop U. Patil, for the Petitioner.

CORAM : NITIN W. SAMBRE, J.

DATE : 4th APRIL, 2022

PC.

1. Though served none appears for the respondent/plaintiff.

2. Respondent/plaintiff – Insurance Company initiated suit for recovery being RCS No.205 of 2018. Petitioner entered his appearance in the suit in the capacity of defendant on 2nd June, 2018 after having served suit summons on 3rd April, 2018. On 3rd July, 2018, the suit was directed to be proceeded without written statement. As a consequence, a motion is taken out by the petitioner for permission to place on record written statement which is rejected vide impugned order dated 4th January, 2019. The submission is, the delay caused is unintentional.

3. Considered submissions.

4. In response to the Court's query, counsel for the petitioner has tendered copy of written statement to be submitted before the Trial Court in the suit proceedings. He further assures that if permitted the said written statement duly affirmed by the petitioner/defendant can be produced within a period of one week before the Trial Court. He has already urged that he can be put to reasonable conditions.

5. Having regard to the fact that trial in the suit is yet to commence, in the sense, plaintiff has to file affidavit of examination-in-chief, in my opinion, the petitioner can be given a chance in the interest of justice to place on record his written statement particularly when if contentions in the petition are not controverted.

6. As such, written statement which has to be tendered before the Court below is taken on record and marked "X" for identification.

7. The said written statement is permitted to be taken on record of the Trial Court within a period of one week from today subject to payment of additional cost of Rs.15,000/-.

8. The Trial Court shall be at liberty to pass appropriate order of apportionment of the cost.

9. As a consequence of above, the order impugned dated 4th January, 2019 for rejection of notice of motion for condonation of delay in filing written statement is quashed and set aside.

10. The petition stands allowed in above terms.

[NITIN W. SAMBRE, J.]