

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5965 OF 2022

Shirish Ramrao Kulkarni

PETITIONER

VERSUS

Ferozkhan Hamidkhan Pathan

RESPONDENT

.....

Mr. Ravibhushan P. Adgaonkar, Advocate for the petitioner

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th APRIL, 2023

ORDER :

1. Being aggrieved by the order dated 11th October, 2021 passed by the learned 2nd Joint Civil Judge, Senior Division, Latur, below Exhibit-66 in Regular civil Suit No. 36 of 2013, thereby allowing the application filed by the plaintiff to condone the delay and to set aside the dismissal order, the petitioner - defendant has moved this petition.
2. Heard learned advocate for the petitioner. Perused the petition memo, the annexures and the impugned order. The respondent, though served, has not caused appearance.
3. By the impugned order, the Trial Court has allowed the application filed by the plaintiff and condoned the delay and has

set aside the order of dismissal of suit in default, subject to payment of cost of Rs.3,500/-.

4. Learned advocate for the petitioner has strenuously urged that after the impugned order is passed, two witnesses examined by the defendant – petitioner in the counter claim filed by him, are expired.

5. No illegality or perversity is found in the order impugned in the present writ petition to warrant interference in exercise of extraordinary writ jurisdiction. The submission of the petitioner that the two witnesses examined by him have expired, will be considered by the Trial Court at the time of hearing of the counter claim.

6. Since, no merit is found in the writ petition, the writ petition is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE