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

WRIT PETITION NO.12518 OF 2023

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Jyoti Dnyanoba Dhayarkar

... Petitioner

V/s.

Vipul Ganesh Raut & Ors.

... Respondents

Mr. D.S. Dhayarkar for the petitioner.

Mr. P.B. Gujar for respondent No.3/SBI.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 20, 2023

PC.:

1. The petitioner is the plaintiff who filed suit for declaration and injunction that the plaintiff has half share in the amount lying in defendant No.3/Bank. Further relief against defendant No.1 seeking Rs.30,000/- along with interest is also sought.

2. In the said suit, defendant Nos.1 and 2 were served with suit summons on 1 June 2022. On 8 September 2022 defendant Nos.1 and 2 filed their written statement. However, there was delay of nine days' in filing the written statement. Hence, defendant Nos.1 & 2 filed an application on 17 January 2023 for condonation of delay of nine days' in filing written statement.

3. The Trial Court allowed the application condoning delay of nine days' in filing the written statement subject to payment of

cost of Rs.10,000/-.

4. Learned advocate for the petitioner submits that the impugned order is passed without giving opportunity of hearing. However, on perusal of the impugned order, it is clear that the Trial Court waited for the advocate for the plaintiff till 3.30 p.m. and it is only after advocate for the plaintiff failed to remain present in Court till 3.30 p.m. the impugned order is passed. Therefore, the impugned order cannot be termed as order in breach of principles of natural justice.

5. The second prayer is in relation to vakalatnama submitted by two advocates without obtaining no objection from previous advocate. Filing of vakalatnama without no objection from previous advocate is a matter between the client and advocate. It is well settled that the client is at liberty to engage any advocate and the earlier advocate cannot refuse to hand over documents to the client on the ground of non-appearance of professional fees. There is no enforceable right available with the plaintiff to enforce relief that the vakalatnama filed by the defendants advocate cannot be considered without taking no objection of earlier advocate.

6. There is, therefore, no merit in the writ petition. The writ petition is dismissed. No costs.

(AMIT BORKAR, J.)