



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3765 OF 2022

M/s Archana Petroleum Through Its Proprietor
Prashant Marutrao Zine

VERSUS

Bharat Petroleum Corporation Ltd Through
Its Territory Manager Retail

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Mr. S. V. Dixit, Advocate for the Petitioner

Mr. S. S. Kulkarni, Advocate for Respondents

CORAM : R. M. JOSHI, J
DATE : OCTOBER 09, 2025

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the order passed by the Trial Court below Exh. 28 in Special Civil Suit No. 210/2015 rejecting application to set aside the order dated 13.03.2018 proceeding without written statement of Defendant/Petitioner.

3. Learned Counsel for the Petitioner submits that the suit is for recovery of money and the written statement of the Defendant is essential. He also drew attention of the Court to several facts including number of applications filed before the Trial Court and

orders passed therein. He also contends that the major portion of the said litigation has gone during the period of Covid-19 pandemic. It is his submission that having regard to all these facts, this Court should exercise the discretion and allow the Petitioner to file written statement on record.

4. Learned Counsel for the Respondent raised objection with regard to tenability of the application filed before the Trial Court there by contending that in view of Article 137 of the Limitation Act, application ought to have been filed within three years and since no application for condonation of delay has been filed, the order impugned does not deserve interference. To support his submissions, he placed reliance on judgment of Hon'ble Supreme Court in case of Mohammed Yusuf vs. Faij Mohammad and Ors, (2008) 17 SCR 20.

5. Though this Court finds substance in the contention of learned Counsel for the Respondent with regard to the applicability of Article 137 of the Limitation Act, the question arises before this Court as to whether to call upon the Petitioner to move Trial Court with an application for condonation of delay or

to exercise discretion.

6. Herein this case, the suit is for recovery of money. It would be in the interest of parties that the Defendant is given an opportunity to file written statement to oppose the suit. Apart from the fact that the number of applications were filed and agitated before Trial Court, the period from March, 2020 to February, 2022 was in the time of Covid-19 pandemic.

7. Having regard to all these circumstances, this Court finds it appropriate not to relegate the Petitioner back to Trial Court for moving application for condonation of delay and instead use the discretion of permitting the Defendant to file written statement by setting aside impugned order. Hence, the order:

O R D E R

- (A) Petition stands allowed. Impugned order stand set aside.
- (B) Defendant is permitted to file written statement subject to payment of cost of Rs. 15,000/- payable to Respondent/Plaintiff.
- (C) Written statement be filed within a period of two weeks from today. If the written statement is filed within two weeks, Trial

Court to accept the same after satisfying the fact that cost is paid to Plaintiff as directed by this Court. In case, written statement is not filed within time, right of the Defendant to file written statement stand forfeited.

(R. M. JOSHI, J.)