



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.97 OF 2025**

Pooja Pravin Desai and Anr. ... Petitioners
versus
Vatsala Vidhyadhar Bhoje and Ors. ... Respondents

Mr. Prajakt M. Arjunwadkar with Mr. Raj S. Satam, Mr. Dhananjay Uttare, for
Petitioners.

CORAM: N.J.JAMADAR, J.

DATE : 18 MARCH 2025

P.C.

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to an order dated 18 July 2024 passed by the learned Civil Judge, Sr. Division, Ichalkaranji, rejecting the application preferred by the Petitioners – Defendant Nos.3 and 4 to set aside the ex-parte order dated 3 October 2018 passed against the Defendants.
3. The suit summons was served on Defendant No.3 on 1 September 2018 and on Defendant No.4 on 19 June 2018. Resultantly, the ex-parte order was passed against the Defendants on 3 October 2018. The Defendants preferred an application to set aside the ex-parte order on 22 November 2023, after more than five years from the date of service of summons on Defendant Nos.3 and 4. By the impugned order dated 18 July 2024, the learned Civil Judge was persuaded to reject the application holding that the Defendant Nos.3 and 4 failed to ascribe justifiable cause for non-

appearance and to set aside the ex-parte order.

4. Mr. Arjunwadkar, learned Counsel for the Petitioners, submitted that, though there is an element of delay on the part of Defendant Nos.3 and 4 in approaching the Court to seek setting aside of the ex-parte order, yet, having regard to the circumstances of the case, this Court may exercise discretion to provide an effective opportunity of hearing to the Petitioners.

5. I have perused the averments in the application (Exhibit 38) filed by the Petitioners to set aside the ex-parte order. It was contended that on account of Covid-19 Pandemic, Defendant Nos.3 and 4 could not appear before the Court. Defendant No.4 was also on family way and delivered a baby.

6. In the light of the aforesaid contentions in the application, the view of the trial Court that Defendant Nos.3 and 4 have failed to ascribe any sufficient cause appears wholly sustainable. The suit summons was served on Defendant Nos.3 and 4 in the months of September and June, 2018 respectively, much before Covid-19 Pandemic started.

7. Moreover, Defendant Nos.3 and 4 have not ascribed any cause for not approaching the Court to seek setting aside of the ex-parte order even after Covid-19 Pandemic subsided. A bald assertion that Defendant No.4 was on a family way has been made. The Court cannot lose sight of the fact that under the provisions contained in Order VIII Rule 1 of the Code of Civil Procedure, a Defendant is enjoined to file Written Statement within a period of 30 days of

the service of summons. The Court is empowered to extend the time and condone the delay in filing the written statement, if the Defendant makes out a sufficient cause.

8. In the case at hand, the Defendants chose not to appear before the Court for over five years. In these circumstances, the learned Civil Judge was fully justified in declining to set aside the ex-parte order. No interference is warranted in exercise of the supervisory jurisdiction.

9. The Writ Petition, thus, stands dismissed.

10. No costs.

(N.J.JAMADAR, J.)