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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

WRIT PETITION NO. 3785 OF 2025

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Date: 2025.03.29
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M/s. Victoria Enterprises Ltd. & Anr.

...Petitioners

V/s.

M/s Hasmukh N Shah & Associates

...Respondent

Mr. Manish N. Jain a/w. Ms. Ritu G. Gehlot i/b S. M. Jain
Associates for the Petitioners.

Mr. A. N. Shah for the Respondent.

CORAM : N.J. JAMADAR, J.

DATE : 25TH MARCH, 2025.

P.C.:-

1. Heard learned counsel for the parties.
2. The challenge in this Petition is an order dated 18.02.2025, whereby learned Judge, City Civil Court condoned the delay in entering appearance in the Summary Suit No.104 of 2025 subject to payment of costs of Rs.1,00,000/-.
3. It is submitted on behalf of the Petitioners that the delay was only of five days. The delay was un-intentional.

Learned City Civil Judge could not have thus saddled heavy costs of Rs.1,00,000/- for condoning the delay of five days only.

4. Learned counsel for the Respondent refuted the Petitioners' contention and it was submitted that since the year 2017, the Defendants have avoided the service of writ of summons. There was in fact delay of 15 days in entering appearance. Therefore, the impugned order does not warrant interference.

5. The Court has to proceed on the premise that the delay was of five days, as reckoned by the learned Judge, City Civil Court. The learned Judge was of the view that the Petitioners had made out a sufficient cause for condonation of delay. However, since the dispute in the suit is a commercial dispute, it was necessary to impose heavy costs.

6. Ordinarily, this Court doesn't interfere with the order of costs. However, in the instant case, the learned Judge found that the delay was only of five days and the learned Judge was also persuaded to accept the cause assigned for delay as sufficient. In that background, the order of payment of costs of

Rs.1,00,000/- errs on the side of excessiveness. Therefore, it is necessary to modify the directions to pay costs.

7. The Writ Petition stands partly allowed.

8. The costs stand reduced to Rs.50,000/-, which shall be deposited within one week from the date of uploading of this order.

(N.J. JAMADAR, J.)