



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 2853/2024

(LAXMAN UDARAMJI LAROKAR **VERSUS** WASUDEO NATHTHUJI SAWARKAR)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri H.I. Kothari, counsel for the petitioner.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 14, 2025

Heard. The petitioner has challenged the order dated 26.03.2024 passed by the trial Court allowing the application for condonation of delay of 124 days filed by the respondent.

2. The learned counsel for the petitioner submitted that Summary Civil Suit no.142 of 2021 filed by the petitioner was decreed by the judgment and decree dated 20.01.2022. The respondent filed an application under Order XXXVII Rule 4 of the Code of Civil Procedure, 1908 (for short, 'the Code') for setting aside judgment and decree alongwith an application for condonation of delay. It is submitted that without demonstrating any sufficient cause, the application for delay was filed and the same was allowed by the trial Court by condoning the delay of 124 days subject to costs of Rs.2,500/-. It is argued that the trial Court has not recorded elaborate reasons while condoning the delay and only a reference to some of the judgments is made in the impugned order. It is therefore submitted that the impugned order is unreasoned and passed by the trial Court mechanically.

3. Although notice was served, nobody appears for the respondent. The matter is taken up for hearing on the basis of the documents filed on record.

4. It has to be seen that by the impugned order, delay of 124 days in filing the application under Order XXXVII Rule 4 of the Code is condoned subject to costs of Rs.2,500/-. The respondent had filed an application seeking condonation of delay and has led evidence in support of his case by examining himself as witness. The petitioner, who was non-applicant in the said proceedings, has not examined in any witness. The respondent in support of the application for condonation of delay had stated that on receipt of notice of execution proceedings in S.D. no.41 of 2022, he applied for certified copies which were received on 12.09.2022 and thereafter the application for setting aside the impugned judgment was filed in which there was delay. It has to be seen that the respondent has mentioned the miscommunication between the respondent and his counsel as the reason for delay and considering the extent of delay to be of 124 days, the trial Court has condoned the same. A perusal of the impugned order shows that in paragraph 7, the reasons for condoning delay are considered and in paragraph 8 of the same, reference is made to several judgments relied upon by the parties. It is clear that the trial Court has applied settled principles with respect to condonation of delay and by

considering the delay to be of 124 days, the same is condoned by imposing appropriate costs of Rs.2,500/-.

5. On a perusal of the impugned order, it is clear that the trial Court has considered the reasons for delay and also the evidence led by the parties in support of condonation of delay. No perversity is seen in the impugned order condoning the delay of 124 days. Although the counsel for the petitioner has submitted that the delay was in fact of more than 124 days, nothing is placed on record in that regard. As such, no interference is warranted under Article 227 of the Constitution of India.

6. In view of the overall factual and legal aspects, I do not find any perversity with the impugned order passed by the trial Court condoning delay of 124 days. The writ petition is therefore dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)