



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1751 OF 2026

Kamar Infrastructure & ors.

..Petitioners

Versus

Ashoka Buildcon Ltd.

...Respondent

Mr. Ketan Dhavle a/w Urusah M I i/b Dave & Co., for the
Petitioners.

Mr. Sriraj G Menon a/w Mr. Sandesh Panchal i/b Satyaki Law
Associates, for the Respondent.

CORAM : N. J. JAMADAR, J.

DATE : 20th APRIL 2026

P.C.:

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 25th April, 2025 whereby the learned Civil Judge, Senior Division, Nashik, has rejected an application for condonation of delay in entering appearance in the Summary Suit No. 46/2014.
3. The learned Civil Judge was of the view that, there is no provision for condonation of delay in entering appearance under Order XXXVII of the Code and, therefore, the application was untenable. It seems, the impugned order has been passed oblivious to the provisions contained in Order XXXVII Rule 3(7) of the Code of Civil Procedure, 1908('the Code, 1908'). Sub Rule (7) of Rule 3 Order XXXVII expressly empowers the Court to

condone the delay of the defendant in entering an appearance or in applying for leave to defend the suit, if sufficient cause is shown by the defendant. Thus, the impugned order cannot be sustained.

4. The petition, thus, deserves to be allowed, and the application to condone the delay in entering the appearance is required to be restored to the file of learned Civil Judge for fresh decision, in accordance with law.

5. Hence, the following order:-

:: O R D E R ::

- i) The Writ Petition stands allowed.
- ii) The impugned order stands quashed and set aside.
- iii) The application for condonation of delay in entering appearance in Summary Suit No. 46/2014 stands restored to file.
- iv) The learned Civil Judge is requested to hear and decide the application afresh, after providing an effective opportunity of hearing to the parties.

[N. J. JAMADAR, J.]