

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2067 OF 2026

Shubham Commercial Enterprises Pvt. Ltd. ..Petitioner

Versus

Sitabai Kashinath Padte & Anr. ...Respondents

Mr. Nishant Tripathi a/w Mr. Pranav Vaidya i/b M Tripathi &
Co., for the Petitioner.

Mr. Arvind A Taral, for the Respondent Nos. 1 and 2.

Mr. Santosh Mali, for the Respondent – BMC.

CORAM: N. J. JAMADAR, J.

DATE : 17th MARCH 2026

Oral Order:

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 08th January, 2026 whereby the learned Judge, City Civil Court has rejected a Notice of Motion taken out by the petitioner – Defendant No. 5 for condoning delay in filing the written statement, and permit the Defendant No.5 to file written statement.
3. The Respondent Nos. 1 and 2/plaintiffs appeared before this Court and have filed an affidavit giving their no objection for condonation of delay in filing the written statement. Paragraph Nos. 5 to 7 of the said affidavit read as under:

“5. I say that the Respondent No. 1 & 2 have given consent for condonation of delay in the filing of written statement by the Petitioner only to save time

in the proceedings of the suit because already 13 years have elapsed since the institution of the suit in the year 2013 and also because Respondent No. 1 is super senior citizen of 85 years.

6. That this affidavit is being filed to place my consent and no-objection on record in support of the petition filed by Petitioner.

7. That I state that I have no objection if this Hon'ble Court is pleased to allow the said Petition."

4. In fact, the Respondent Nos. 1 and 2/plaintiffs have given their consent for condonation of delay before the Trial Court also. However, having regard to the fact that the delay was huge one, the learned Judge declined to condone the delay.

5. The petitioner has raised a contention that, the writ of summons was not duly served upon it and, therefore, the time to file the written statement did not begin. The learned Judge has repelled the said contention by observing that, the petitioner/Defendant No. 5 did appear in the suit and participated in the other proceedings in the said suit.

6. If the writ of summons was not served on Defendant No. 5/petitioner, it becomes debatable whether the prayer to condone the delay in filing written statement could have been rejected, especially when the plaintiffs had given their no

objection for condonation of delay. In these circumstances, the cause of justice would be better advanced if the Defendant No. 5 is permitted to file the written statement.

7. 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 Notice of Motion No. 6702/2025 stands allowed.
- iv) The delay in filing the written statement by the Defendant No. 5 stands condoned.
- v) The Defendant No. 5 is permitted to file the written statement within a period of one week from the date of communication of this order.
- vi) The learned Judge, City Civil Court is requested to make an endeavor to hear and decide the suit as expeditiously as possible and, preferably, within a period of one year from the date of settlement of the issues.

[N. J. JAMADAR, J.]