



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4936 OF 2026**

Mamta Rajendra Suryavanshi ... Petitioner
versus
Mahesh Shivaji Kothule and Ors. ... Respondents

Mr. Sugandh Deshmukh with Mr. Aniket Kanawade, Mr. Iruin D'Souza, Mr. Vaibhav Thorave, for Petitioner.
Mr. Gurudas Gorwadkar, for Respondent No.1.

CORAM: N.J.JAMADAR, J.

DATE : 20 APRIL 2026

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 10 March 2025 passed by the learned Civil Judge, Nashik, whereby the application preferred by the Petitioner – Defendant No.1 for condonation of delay of 210 days in filing the written statement came to be rejected and a further order dated 22 December 2025, whereby a prayer to review the said order, also came to be rejected.
3. The Respondent No.1 has instituted a suit for specific performance of the oral agreement for sale dated 6 May 2022. The suit summons was served on the Defendants on 17 July 2023. There was a delay in filing the written statement within the stipulated period. Hence, the Petitioner filed an application for condonation of delay. It was, inter alia, asserted that, on

account of the serious ailments, the Petitioner was suffering from, the written statement could not be filed within the stipulated period. A medical certificate issued by Dr. Sachin Jadhav, Consulting General Surgeon, was annexed to the application.

4. Learned Civil Judge was persuaded to reject the application on the ground that there was an apparent inconsistency in the certificate as regards the date of issue and the date from which the Petitioner allegedly availed the treatment from Dr. Jadhav. Learned Civil Judge has also recorded that the Petitioner had failed to account for the entire period of delay.

5. Mr. Deshmukh, the learned counsel for the Petitioner, submitted that the learned Civil Judge took a very rigid and hyper-technical view of the matter. The Petitioner was prevented from filing the Written Statement by a genuine reason. Thus, the application could not have been rejected.

6. Mr. Gorwadkar, the learned Counsel for the Respondent No.1 – Plaintiff resisted the prayer of the Petitioner. It was submitted that the inconsistency in the certificate reflects upon the bonafides of the application for condonation of delay.

7. It is true, there is an apparent inconsistency in the dates which find mention in the medical certificate, which certifies that the Petitioner was under the treatment of Dr. Jadhav for “Lumbago with Lumbar Radiculopathy with Myelopathy”. However, it appears that the application for condonation of delay

was filed on 27 February 2024 and the medical certificate was purportedly obtained on 26 February 2024. But on the certificate, the year of issue was mentioned as 2023.

8. Having regard to the reasons ascribed in the application and the support sought to be drawn for the same from the medical certificate, this Court is of the considered view that the delay did not appear to be intentional. The Petitioner appeared to be suffering from debilitating illness. The medical certificate could not have been discarded for the inconsistency in the dates. The reason ascribed for the delay appeared to be genuine and bonafide. Moreover, having regard to the nature of the claim, if the Defendant No.1 is not permitted to file the written statement, the Defendant would suffer an irreparable loss. Therefore, this court is persuaded to condone the delay subject to the payment of costs by the Petitioner to the Respondent No.1 – Plaintiff for the delay and inconvenience caused to the Plaintiff.

9. Hence, the following order :

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The impugned orders stand quashed and set aside.
- (iii) The Application for condonation of delay in filing the written statement stands allowed.
- (iv) Delay in filing the written statement stands condoned.

(v) The Petitioner shall pay costs of Rs.15,000/- to the Respondent No.1 – Plaintiff, within a period of four weeks from today.

(vi) The payment of costs shall be a condition precedent.

(vii) If the said costs is not paid within the said period, the application seeking condonation of delay shall stands rejected.

(N.J.JAMADAR, J.)