

Nitin Mahadeo Jawale & Ors.

v.

Bhaskar Mahadeo Mutke

(SLP (Civil) No. 27824 of 2024)

22 November 2024

[J.B. Pardiwala and R. Mahadevan, JJ.]

Issue for Consideration

Whether the High Court was correct in setting aside the order passed by Trial Court wherein, Trial Court condoned the delay of 4½ Years for filing of written statement.

Headnotes[†]

Limitation Act, 1963 – Whether a party may be allowed to file written statement with a delay of 4½ Years:

Held: The Court has noticed that the growing tendency on the part of the litigants in throwing the entire blame on the head of the advocate for the delay – Even if the Court assumes that the advocate was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance – The litigant should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief – The High Court was correct in setting aside the Trial Court's order – Therefore, the petition fails and is dismissed. [Paras 6, 7, 8]

List of Acts

Limitation Act, 1963.

List of Keywords

Condonation of delay; Inordinate delay in filing of written statement; Throwing blame of delay on the head of advocate.

Nitin Mahadeo Jawale & Ors. v. Bhaskar Mahadeo Mutke**Case Arising From**

EXTRAORDINARY APPELLATE JURISDICTION: Petition for Special Leave to Appeal (Civil) No. 27824 of 2024

From the Judgment and Order dated 12.04.2024 of the High Court of Judicature at Bombay at Aurangabad in WP No. 15056 of 2019

Appearances for Parties

Rajat Joseph, Hrishikesh S. Chitaley, Vijay Kari Singh, Kaustubh D. Kadasne, Advs. for the Petitioners

Judgment / Order of the Supreme Court**Order**

1. Delay condoned.
2. This petition arises from the Order passed by the High Court of Judicature at Bombay, Bench at Aurangabad in Writ Petition No.15056 of 2019 dated 12th April, 2024 by which the High Court allowed the petition filed by the original plaintiff (respondent no.1 herein) and thereby set aside the order passed by the Joint Civil Judge, Junior Division, Jamkhed condoning the delay of 4½ years in filing the written statement.
3. The petitioners herein are the original defendants and respondent no.1 herein is the original plaintiff.
4. It appears from the materials on record that as the defendants failed to file their written statement in time the stage to file written statement was closed. Thereafter permission of the Trial Court was prayed for to file the written statement after a period of over 4½ years. The Trial Court permitted the defendants to file their written statement. The plaintiff being dissatisfied with the same challenged the order passed by the Trial Court permitting the defendants to file written statement after a period of 4½ years. The High Court allowed the petition and set aside the order passed by the trial court.
5. We find no error not to speak of any error of law in the impugned judgment passed by the High Court.

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6. We have noticed over a period of time the growing tendency on the part of the litigants in throwing the entire blame on the head of the advocate. Not only this, we have come across cases where the concerned advocate has filed an affidavit in favour of his client(s) saying that he was unable to attend the proceedings due to some personal reasons difficulties thereby facilitating the litigant to get the delay condoned.
7. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance.
8. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.
9. In view of the aforesaid, petition fails and is hereby dismissed.
10. Pending application(s), if any, stand disposed of.

Result of the case: Petition dismissed.

[†]*Headnotes prepared by:* Gaurav Upadhyay, Hon. Associate Editor
(Verified by: Liz Mathew, Sr. Adv.)