

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6509 OF 2014

Smt. Akatai Baburao Koli & Ors. .. Petitioners
vs.
Sou. Mangal Laxman Koli & Ors. .. Respondents

Mr. Nagesh Y. Chavan for Petitioners.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE: 05 MAY 2015

P.C. :-

- 1] The learned counsel for the petitioners files affidavit of service indicating that service is complete upon all the respondents.
- 2] This Court on 12 January 2015 had already put the parties to notice that this petition would be disposed of finally at the stage of admission.
- 3] Rule.
- 4] This petition challenges orders dated 19 August 2013 and 11 February 2014, which have the effect of disabling the petitioners from filing written statement in the suit for partition.
- 5] Although the reasons stated for not filing the written statement within the prescribed period are not very satisfactory, looking to the circumstances that most of the defendants are aged

ladies and residing at difference places, there does appear to have been communication gap, which led to the delay in filing of the written statement. No doubt, on account of this, prejudice has occasioned the original plaintiffs. However, the prejudice is not of such degree, as would require the petitioners to suffer a '*No WS Order*', particularly considering that this is a suit for partition.

6] For the aforesaid reasons, the impugned orders dated 19 August 2013 and 11 February 2014 are set aside. The written statement already filed by the petitioners along with application at Exhibit '28' is directed to be taken on record. All this is subject to the petitioners depositing in the Civil Court costs of Rs.8,000/- (Rupees Eight Thousand) within a period of six weeks from today. Once such costs are deposited, each of the four plaintiffs shall be at liberty to withdraw an amount of Rs.2,000/- each unconditionally.

7] Rule is made absolute to the aforesaid extent. There shall be no separate order as to costs in this petition.

8] All concerned to act on basis of an authenticated copy of this order.

(M. S. SONAK, J.)