

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 10313 OF 2014.

Deepak Bhimrao Patil.

.. Petitioner

Vs.

Bipin Prabhakar Mahajani.

.. Respondent

Mr.M.S.Athalaye, for the Petitioner.

Mr.Shriram Kulkarni, for the Respondent.

CORAM: N.M.Jamdar, J.

Wednesday 15 April, 2015

PC :

Rule. Rule made returnable forthwith. Taken up for final hearing by consent.

2 The Petitioner-tenant is aggrieved by the order rejecting his application to set aside the order of No Written Statement and to permit him to file a written statement.

3 Regular Civil Suit No.78 of 2014 is filed by the Respondent in the Court of Civil Judge, Junior Division Satara, for eviction of the Petitioner. On 11 October 2014, an order was passed against the Petitioner to proceed without Written Statement. The Petitioner had moved an application on 26 August 2014, to set aside the order, which has been rejected by the order dated 11 October 2014, which is impugned in this petition.

4 The Petitioner is a tenant. If no written statement is allowed to be filed, the Petitioner will suffer serious prejudice. The Petitioner has given cogent reason for not filing the Written Statement in time. It is stated that relevant documents could not be obtained and therefore, necessary instructions could not be given to the advocate. The learned Judge has rejected the application with a singular reason that the Petitioner is prolonging the matter. The equities between the parties could have been and need to be adjusted by imposing suitable conditions. I am of the opinion that interest of justice will be served by allowing the Petitioner to file a written statement subject to imposition of costs, and by laying down a time-table for compliance.

5 Accordingly, Rule made absolute in terms of prayer clause (a) subject to Petitioner paying costs of Rs.5,000/- to the Respondent within a period of two weeks. No costs.

6 It is informed that next date in the suit is 28 April 2015. The Written Statement shall be filed before the next date in the suit i.e. 28 April 2015. The Petitioner will co-operate with the Court for disposal of the suit and will not seek needless adjournment.

(N.M.Jamdar, J.)