

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10861 OF 2014**

Madhukar Vitthal Sonawane

..Petitioner

Vs.

Prakash Vitthal Sonawane

..Respondent

Mr. Ajit Kenjale for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 13th MARCH, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 3-9-2014 passed by the Learned Civil Judge Junior Division, Satara, by which order, the application Exhibit 167 filed by the Defendant No.4 i.e. the Petitioner herein for setting aside No WS order, came to be rejected.

2 The Suit in question is of the year 1998. The issues in the said Suit have been framed on 2-7-2008, additional issues on 16-7-2009 and on 1-3-2014 the evidence of the Plaintiff is completed, the Suit is therefore at the stage where the hearing has started. The Trial Court in the impugned order has also observed that what the Defendant No.4 wanted to plead has already been pleaded by the other Defendants. The issues have already been framed. Having regard to the long lapse of time in the Defendant No.4 filing the instant application for setting aside the No WS order, and also considering the stage at

which the Suit is at present, the Trial Court deemed it appropriate to reject the application for setting aside the No WS order and for permitting the Defendant No.4 to file his Written Statement.

3 In my view, having regard to the well settled position in so far as order VIII Rule 1 of the Civil Procedure Code is concerned, the order passed by the Trial Court rejecting the application Exhibit 167 cannot be found fault with. No case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]