

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

WRIT PETITION NO.11379 OF 2014

WITH

CIVIL APPLICATION NO.2897 OF 2014

Seema Shabbir Mohd. Ali

.. Petitioner

Versus

Vishnu Jayram Madhavi and others

.. Respondents

Shri. Kapil Prakash Shetye, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 04th MARCH, 2015

PC.

1. The order dated 11.09.2014 passed by the 2nd Joint Civil Judge, Junior Division, Panvel allowing the applications Exh.41 and 43 filed by the Defendant No.1 for setting aside the no written statement order and taking his written statement on record by condoning the delay of 29 months is taken exception to by way of the above Petition.

2. The Petitioner is the original Plaintiff. The reason put forth by the Defendant No.1 as to why the written statement was not filed by him is to the effect that the Plaintiff assured him that the matter would be settled and he need not participate in the proceedings. It is on account of the said assurance that it is the case of the Defendant No.1 that he did not

file his written statement. The suit in question has been filed for declaration and specific performance of the agreement in question. It is having regard to the nature of the suit as also the reason mentioned by the Defendant No.1 in the application that the Trial Court deemed it appropriate to allow both the applications Exh.41 and 43. It seems that the application for taking the written statement on record was filed two months after the written statement was affirmed by the Defendant No.1. Since the Trial Court has deemed it appropriate to permit the Defendant No.1 to file his written statement, this Court does not deem it appropriate to interfere with the said order in its Writ Jurisdiction. The Writ Petition is accordingly dismissed. In view of the dismissal of the above Writ Petition, Civil Application does not survive and to stand disposed of as such.

[R.M. SAVANT, J]