

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR

**LPA NO. 192/2004 IN WRIT PETITION NO. 953 OF 2003**

(Baban Vithoba Kale thr. LRs Sushilabai wd/o Baban Kale & Ors vs. Gopal Bansilal Malpani)

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Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's orders

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**CORAM : B.P. DHARMADHIKARI &  
S.B. SHUKRE, JJ.  
APRIL 20, 2015.**

Heard Shri Pratik Sharma, Advocate holding for Shri Mardikar, learned Senior Advocate for the appellant – defendant and Shri Lambat, learned counsel for respondent No. 1 – original plaintiff. Respondent No. 2 (concerned Civil Court) is already deleted.

On 19.03.2015, this Court has passed the following order :

*“Learned Advocate for the appellant submits that as the suit is of the year 2000, provisions of Code of Civil Procedure as amended in 2002 prescribing time limit for filing writing statement under Order VIII Rule 1 would not be applicable.*

*We find that this Court while issuing notice referred the Division Bench of this Court in Chintaman Sukhdeo vs. Shivaji Bhausahab, reported in 2004 (4) Mh. L.J. 739.*

*Civil Suit No. 143 of 2000 is stayed since last almost ten years. As nobody appears for respondent/ plaintiff, we place this L.P.A. for further orders in order*

*matters on 27.03.2015.”*

Today, upon instructions, Shri Lambat, learned counsel, in the background of law noted in the order (supra), fairly gives no objection subject to the appellant co-operating in expeditious disposal of the suit. Shri Sharma, learned counsel has no objection to expeditious disposal of the suit.

The Suit filed by the respondent – plaintiff is Regular Civil Suit No. 143 of 2000. The appellant wanted to file written statement therein and that leave was rejected on 01.07.2003 on the ground that time stipulated in Order 8, Rule 1 of Code of Civil Procedure has expired.

In this situation, with consent, the order of trial Court is set aside. The appellant – defendant is permitted to file written statement within four weeks from today. The trial Court shall thereafter expedite Regular Civil Suit and attempt to decide it finally within next six months.

Letters Patent Appeal is thus partly allowed and disposed of.

**JUDGE**

**JUDGE**

\*GS.