

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7048 OF 2015

1. Subhash Trimbakrao Pathade
Age: 62 years, Occu.: Agri.,
R/o Maher Bhaigaon, Tq. Ambad,
Dist. Jalna.
2. Prashant Subhash Pathade
Age: 29 years, Occu.: Agri.,
R/o Maher Bhaigaon, Tq. Ambad,
Dist. Jalna.
3. Rukhmanbai Subhash Pathade
Age: 57 years, Occu.: Agri.,
R/o Maher Bhaigaon, Tq. Ambad,
Dist. Jalna.
4. Kalpana Shivaji Bhosale
Age: 28 years, Occu.: Household,
R/o Jadgaon, Tq. & Dist. Aurangabad.

..PETITIONERS

VERSUS

Sangeeta Sanjay Bhosale
Age: 36 years, Occu.: Household,
R/o Jadgaon, Karmad,
Tq. & Dist. Aurangabad.

..RESPONDENT

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Mr. S.A. Gaikwad, Advocate for petitioners.
Mr. N.S. Ingale, Advocate for respondent.

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**CORAM : T.V. NALAWADE, J.
DATED : 06th DECEMBER, 2016**

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard both sides by consent for final disposal.

2. The present petition is filed to challenge the order made by Civil Judge, Junior Division, Ambad on Exhibit 62 in Regular Civil Suit No. 28 of 2008. The application was filed for setting aside No W.S. Order by present petitioner. Similarly order was made of No Cross. It appears that the order of No Cross is set aside but order of No W.S. is not set aside.

3. The suit was filed by the daughter of petitioner in the year 2008. The Court did not find the reasons given as sufficient for not filing Written Statement in time. Considering the contention that the property is self acquired property of Petitioner No.1 though it is recorded in the name of Petitioner No.2, this Court holds that opportunity needs to be given to the present petitioners to contest the suit by filing Written Statement. However the Trial Court has rejected the application to file Written Statement and plaintiffs are deprived of their possible right for about six years.

4. In view of the circumstances, this Court holds that the petitioner needs to be made liable to pay cost of Rs.20,000/- (Rupees Twenty Thousands Only). The amount is to be deposited in the Trial Court on or before 16th December, 2016. This amount is inclusive of amount of Rs.2,500/- which is already deposited in the Trial Court and so remaining amount of Rs.17,500/- (Rupees Seventeen Thousands Five Hundred Only) is to be deposited in the Trial Court. Parties are to appear before the Trial Court on 16th December, 2016. If the said amount is not deposited in the Trial Court on or before 16th December, 2016, it is to be presumed that the present proceeding is dismissed and suit can go on. The suit is to be expedited and in any case within four months from the date of filing of Written Statement which is to be filed with the cost amount i.e. on or before 16th December, 2016. Order of No Written Statement is set aside. Petition is disposed of accordingly.

(T.V. NALAWADE, J.)

SSD