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

WRIT PETITION NO.8879 OF 2016

Sudarshan s/o Rangrao Deshmukh,
Age: 82 years, Occu: Agriculture,
R/o Rajegaon, Tq. Lohara,
District Osmanabad

..PETITIONER
(orig.deft.no.4)

VERSUS

1. Kalawati w/o Sudhakar Deshmukh,
Age: 46 years, Occu: Household,
and Labour work, R/o. Rajegaon,
Tq. Lohara, District Osmanabad

2. Madhukar s/o Vinayak Deshmukh,
Age: Major, Occu: Agri.,
R/o as above

3. Kamlakar s/o Vinayak Deshmukh,
Age: Major, Occu: Agri.,
R/o as above

4. Manohar s/o Anandrao Patil,
Age: Major, Occu: Agri.,
R/o as above

..RESPONDENTS
(R.no.1orig.pltff.
R.nos.2 to 4 formal party)

Mr N. L. Jadhav, Advocate for petitioner;
Mr V. S. Undre, Advocate for respondent No.1

CORAM : NITIN W. SAMBRE, J.

DATE : 1st November, 2017

ORAL ORDER

Upon hearing respective Counsel and on perusal of the record, in my opinion, the order dated 3rd January, 2015, passed by Civil Judge Junior Division, Lohara, below Exh.53, in Regular Civil Suit No.47 of 2011, whereby the prayer of the petitioner-original defendant no.4 to place on record written statement came to be turned down, is not sustainable, as

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the petitioner was added as party defendant no.4 in January, 2013, as is sought to be canvassed and which fact is not in dispute.

2. Though Mr Undre, learned Counsel appearing on behalf of respondent no.1-original plaintiff has strenuously opposed the claim, still in the interest of justice and having regard to the fact that petitioner was impleaded as party defendant no.4 at later point of time of institution of the suit, in my opinion, could be considered as a ground for showing indulgence.

3. In view thereof, the order dated 3rd January, 2015, passed by Civil Judge Junior Division, Lohara, below Exh.53, in Regular Civil Suit No.47 of 2011, is quashed and set aside.

Aforesaid application Exh.53 stands allowed.

The petitioner shall deposit costs of Rs.5,000/- before the learned Trial Court within a period of four weeks from today. The learned Trial Court shall accept written statement of the petitioner and proceed ahead with the suit. Respondent no.1-original plaintiff would be entitled to the said costs.

Writ petition stands allowed in above terms.

(NITIN W. SAMBRE, J.)

amj