

(1)

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

WRIT PETITION NO.2306 OF 2014

1. The State of Maharashtra,
Through
The Collector, Parbhani
2. The Taluka Beej Gunan Kendra
Through its Officer-in-charge,
near Vasava Phata,
Jintur Road, Parbhani

..PETITIONERS
(Ori. Defts. No.2 & 3)

VERSUS

1. Anantrao Krishnarao Umrikar,
Age : 64 years, Occu. Agri.
And legal profession,
R/o Nanalpeth, Parbhani
2. Jeevan Jyoti Charitable Trust,
Parbhani,
through its Chairman, with its
registered office at Parbhani
c/o Krishi Vigyan Kendra,
Near Visava Point, Jintur Road,
Parbhani

..RESPONDENTS
(Resp. No.1-Ori. Plff.
Resp. No.2 – Ori. Deft.No.1)

Mr A.P. Basarkar, A.G.P. for petitioners;
Mr M.M. Patil (Beedkar), Advocate for respondent no.1;
Mr V.C. Patil (Ashtekar), Advocate for respondent no.2

CORAM : NITIN W. SAMBRE, J.

DATE : 29th November, 2017

ORAL ORDER:

(2)

This petition is by the State Government, questioning the order dated 30th October, 2013, passed below Exh.81, in Regular Civil Suit No.186 of 2013 by learned Joint Civil Judge Senior Division, Parbhani, whereby prayer of petitioners-original defendants no.2 & 3 for setting aside *ex parte* order came to be rejected.

2. Respondent no.1-plaintiff instituted the aforesaid suit against the petitioners-defendants no.2 & 3, which by order dated 16th September, 2003 was ordered to proceed *ex parte*.

3. It is claimed that the concerned Clerk who received the summons in the suit lost the same and as such, the proceedings in the suit was not diligently attended.

4. Per contra, learned Counsel appearing on behalf of respondents opposed the claim on the ground that earlier attempt for prayer of the petitioners for placing on record written statement was already turned down in 2004. He submits that the equity cannot be worked out in favour of the petitioners just because it is Government and petition is liable to be dismissed.

5. Considered submissions and the fact that the suit is pending since 2004.

(3)

6. Learned Asstt. Govt. Pleader appearing on behalf of petitioners, on instructions, assures this Court that if permitted the petitioners shall file written statement within a period of eight weeks from today. He also submits that at the most the petitioners be put to certain conditions.

7. In the aforesaid background, in the interest of justice and by way of last chance, an indulgence is shown in favour of the petitioners by setting aside order impugned dated 30th October, 2013 and allowing application Exh.81 on following terms:-

The petitioners shall deposit costs of Rs.10,000/- before the learned Trial Court within a period of eight weeks from today along with written statement. If costs as aforesaid is not tendered along with written statement, the suit shall proceed from the stage at which it has been stayed by this Court.

It is clarified that no further extension in the matter would be granted and it would be responsibility of the learned Asstt. Govt. Pleader to communicate it to the petitioners and also the concerned Officer.

If written statement is filed along with costs as aforesaid, Respondent no.1-plaintiff would be at liberty to withdraw the costs and the Trial Court shall proceed to decide the suit finally within a period of six months.

(4)

With above observations and directions, writ petition stands disposed of.

(NITIN W. SAMBRE, J.)

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