

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4148 OF 2017
(Maharashtra Shetkari Sugar Ltd., Vs.Ideas Engineers')

Mr.G.V.Mohekar, learned counsel for the petitioner.
Mr.P.S.Pawar, learned counsel for the respondent.

(CORAM : M.S.Sanklecha, J.)
DATE : 13/04/2017

PER COURT :

1. This petition challenges the order dated 03/02/2017 passed by the Civil Judge, S.D.Aurangabad. As no written statement has been filed on behalf of the defendants, the impugned order directs the suit is to be proceeded without the written statement of the defendants.

2. It is an admitted position that no written statement was filed within the time specified in Order 8 Rule 1 and the proviso thereto of the Civil Procedure Code, 1908 (CPC). Further no application was made on behalf of the defendants to the Court requesting that the written statement of the defendants be taken on record alongwith reasons for the failure to file the written statement within the stipulated extended time as provided under Order 8 Rule 1 of the CPC.

3. Mr.Pawar, learned counsel appearing for the respondent fairly states that the impugned order could be set aside and the respondent be permitted to file an application before the Trial Court for taking its written statement on record and the Trial Court if satisfied with the reasons made out by the defendants, could consider taking the written statement on record.

4. In view of the above submissions made by the respondent, the impugned order is set aside. The issue is restored to the Trial Court to consider an application, if any, filed by the defendants within the period of 1 (one) week from today. If an application is filed within the stipulated time, the Trial Court would consider the same on its own merits and after hearing the plaintiffs, pass an appropriate order on the same.

5. Petition stands disposed of in the above terms.

6. Parties to act on the authenticated copy of this order.

(M.S.Sanklecha, J.)