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

WRIT PETITION NO.10831 OF 2016

1. Savitabai Vyankat Maindargi,
Age: 53 years, Occ: Agri.,
2. Vyankat Yashwant Maindargi,
Age: 59 years, Occ: Agri.,

Both R/o. Sastur, Taluka Lohara,
District Osmanabad. ..PETITIONERS

VERSUS

Sanju Babruwan Jagade,
Age: 41 years, Occ: Agri.,
R/o. Sastur, Taluka Lohara,
District Osmanabad. ..RESPONDENT

Mr Parag V. Barde, Advocate for petitioners;
Mr P.D. Suryawanshi, Advocate for respondent

CORAM : NITIN W. SAMBRE, J.

DATE : 10th OCTOBER, 2017

ORAL ORDER :

The application below Exhibit-18 in Regular Civil Suit No.93 of 2012 seeking permission to place on record the copy of written statement by the petitioners-defendants came to be rejected by the impugned order dated 26th March, 2015 on the

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ground that there is no sufficient material to condone the delay caused in filing the written statement on record.

2. It is not in dispute that the application came to be moved within 90 days pursuant to Order 8 of the Code of Civil Procedure.

3. The suit was dismissed 2nd March, 2013, however, same was restored on 7th July, 2014. As such, the fact remains that the application for filing of written statement was more than 90 days from the date of service of summons on the petitioners and accordingly, have tendered written statement, which was rejected for having been filed at belated stage without any convincing reason.

4. It is to be noted that the claim is opposed by Mr. Suryawanshi, learned Counsel for the respondent-plaintiff.

5. Since the suit was restored and

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application for 'No W.S. Order' and permission to place on record the written statement is filed within 90 days, in my opinion, in the interest of justice, case is made out for showing indulgence. As such, the impugned order dated 26th March, 2015 passed below Exhibit-18 in Regular Civil Suit No. 93 of 2012 is set aside. The application at Exhibit-18 stands allowed.

6. The written statement which is already placed be taken on record of the trial Court and the plaintiff be permitted to withdraw the costs amount of Rs.15,000/- deposited by the petitioners.

7. With the above observations, the petition stands allowed.

(NITIN W. SAMBRE, J.)

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