

(1)

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

WRIT PETITION NO.8934 OF 2014

1. Trimbak s/o Dashrath Jadhav,
Age: 45 years, Occu: Agriculture
2. Rameshwar s/o Dashrath Jadhav,
Age: 40 years, Occu: Agriculture
3. Dilip s/o Trimbak Jadhav,
Age: 20 years, Occu: Agriculture,

All R/o. Chikalthana (Bk.),
Tq. Selu, Dist. Parbhani

..PETITIONERS
(Orig.Defts.)

VERSUS

Ansiram s/o Dadarao Jadhav,
Age: 60 years, Occu: Agriculture,
R/o. Chikalthana Bk.
Tq. Selu, Dist. Parbhani

..RESPONDENT
(Orig.Plaintiff)

Mr S. J. Salunke, Advocate for petitioners

CORAM : NITIN W. SAMBRE, J.

DATE : 12th September, 2017

ORAL ORDER

In view of service affidavit dated 29th August, 2016, service on the respondent is complete. None appears for respondent-plaintiff.

2. The petitioners are the defendants in Regular Civil Suit No.122 of 2013, in which they failed to file written statement though service of suit summons was effected on them on 21st November, 2013. On 19th March, 2014 i.e. after about four months, 'no written statement' order came to be passed against the petitioners-defendants.

(2)

3. Though the suit of the respondent-plaintiff is stayed, he has chosen not to appear before this Court.

4. In the interest of justice, in my opinion, it will be appropriate to give one more opportunity to the petitioners, who assure through their Counsel to file written statement within a period of two weeks from today. A further assurance is given that the petitioners-defendants shall not seek unnecessary adjournment and shall co-operate in expeditious disposal of the suit. The said statement is accepted.

5. In view thereof, the order dated 4th August, 2014, passed by Civil Judge Junior Division, Selu, below Exh.18, in Regular Civil Suit No.122 of 2013 is quashed and set aside.

If the written statement is tendered by the petitioners within a period of two weeks from today, the Trial Court shall accept the same and proceed further with the suit.

If the petitioners fail to file written statement, as aforesaid, the suit shall proceed further without their written statement.

The petitioners are permitted to withdraw the amount of Rs.5,000/- deposited in this Court, which they shall deposit in the Trial Court, to which the respondent-plaintiff will be entitled to. The said amount be deposited before the Trial Court within two weeks from today.

(3)

Writ Petition stands allowed in above terms.

(NITIN W. SAMBRE, J.)

amj