

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8791 OF 2016

Sou.Lilawati Swamirao Shinde

... Petitioner

Vs.

Vijay Krisnath Shinde

... Respondent

Mr.Vishwanatyh Patil i/b Sandeep Katke for Petitioner
Mr.S.S. Inamdar for Respondent

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: APRIL 10, 2017**

P.C. :

1. This petition filed under Article 227 of the Constitution of India is directed against the order dated 21.8.2015 passed by the learned Civil Judge Junior Division, Solapur on exhibit 16, by which the learned Judge has set aside the order of “no W.S.” and has while condoning the delay, taken the written statement on record.

2. The suit is for recovery of the suit premises and arrears of rent. The suit is between the plaintiff and his brother in law i.e., the defendant. After hearing the learned Counsel for the parties and after going through the order passed by my predecessor dated

28.7.2016, now, it transpires that the main grievance of the petitioner is on the point of limitation as pleaded in the counter claim by the defendant i.e., the respondent. After hearing both the parties on this issue, the learned Counsel for the petitioner submits that he will raise this issue before the trial Court.

3. The learned Counsel for the respondent, upon instructions, submits that 'no WS' order was set aside, and the written statement and counter claim of the respondent is taken on record on 21.8.2015 and there was no stay to the proceedings by this Court.

4. In view of the submissions and the order passed by the trial Court, I do not find any merit in this petition. The order passed by the learned Judge of setting aside the order of 'no written statement' is legal. The learned trial Judge may proceed with settling the issues as contended by both the parties.

5. Writ Petition is dismissed accordingly.

(MRIDULA BHATKAR, J.)