

WRIT PETITION NO. 2115 OF 2013

and perpetual injunction. It appears from the record that the defendant No. 1 i.e. the present Petitioner had not filed written statement.

4 The learned Counsel for the Petitioner submits that due to illness he could not appear before the court atleast till 20/7/2011. That the Court was pleased to pass an order of no written statement. On 12/8/2011 the Petitioner filed an application seeking relief of setting aside the order of no written statement and accept his written statement. The learned Court by an order dated 22/11/2012 had rejected the application on the ground that the medical certificate was filed alogwith the application which showed that he was fit to join his duty on 21/7/2001. According to the learned Court, the proceedings were protracted and therefore, the application was rejected. Hence, this Writ Petition. By an order dated 1st March, 2013 this Court had stayed the proceedings in the suit.

5 The learned counsel for the Petitioner submits that the learned trial court has not considered the fact that the medical certificate had

clearly indicated that due to history of fall, the Petitioner had suffered from severe spinal injury and therefore, he was indispensable for more than a year and the certificate only shows that he was fit to join on that particular day. The suit would go undefended and it would not only cause great prejudice to the Petitioner but would also result in miscarriage of justice.

6 As against this, the learned counsel for the respondent has vehemently opposed for grant of relief and submitted that the suit for specific performance has been protracted due to the petitioner who had not taken proper steps at proper time and therefore, the petition deserves to be rejected.

7 In the above mentioned facts of the case, it would be appropriate to permit the Petitioner to file his written statement on record subject to depositing a cost of Rs. 1,000/- alongwith the application and written statement. The learned Trial court shall accept the written statement on record only in the eventuality that the it is filed on or before 20/11/2017. The learned Civil Judge, S.D.

shall accept the written statement and the contentions raised and frame issues within 4 weeks from the date of filing of the written statement and proceed with the further stages as expeditiously as possible. The order dated 22/11/2012 is hereby quashed and set aside. The Rule is made absolute in the above terms.

(SMT. SADHANA S. JADHAV,J)