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

WRIT PETITION NO. 129 OF 2015

Bharatiya Bhatke Vimukta Vikas Va
Sanshodhan Sanstha, Satara & Anr. .. Petitioners
Vs.
Shri Amar Shivaji Lokhande .. Respondent

Mr. V. S. Talkute for the Petitioners.
Mr. Vaibhav R. Gaikwad for the Respondent.

CORAM : SMT. SADHANA. S. JADHAV, J.
DATE : 15th NOVEMBER, 2017.

P. C. :

1. Heard.
2. Rule. Rule made returnable forthwith with the consent of the parties.
3. The present petitioners happen to be original defendants in Regular Civil Suit No. 467 of 2013 pending before the Civil Judge, Junior Division, Satara. No W. S. was filed by the defendants within 90 days from the issuance of summons and therefore the learned Court by an order dated 18.02.2014 had observed as follows;

“Sufficient opportunity was given to the Defendant Nos.1 & 2 to file W. S. But till today it is not filed. Hence No W. S. against Defendant Nos.1 & 2.”

4. The petitioners i.e. original defendants filed an application on 23.09.2014 requesting the Court to set aside the order of No W.S. and

permit him to defend the suit. It is pertinent to note that there was a delay of more than 7 months in filing the said application and no plausible explanation was given for the inordinate delay in filing the application. The learned Court by an order dated 31.10.2014 had rejected the said application on the ground that no W. S. order was passed on 18.02.2014 and the evidence affidavit of the plaintiffs was filed on 02.04.2014. The application was filed by defendants on 23.09.2014 without assigning any reason for the inordinate delay. Hence, this petition.

5. The learned counsel for the petitioners submits that, in fact the said application could not be filed for want of instructions. That, the petition was filed on 28.11.2014 and by an order dated 20.01.2015 further proceedings have been stayed. The suit is more than four years old. This Court is of the opinion that the suit should not go undefended and in the interest of justice is inclined to set aside the order of No W. S. on the condition that the petitioners shall file written statement within four weeks from today along with costs of Rs.5,000/- to be deposited before the Court of Joint Civil Judge, Junior Division, Satara. The written statement shall be accepted subject to condition that Rs.5,000/- is paid prior to the filing of the written statement. With these directions, the order dated 31.10.2014 is hereby quashed and set aside. The petition is allowed. The rule is made absolute in the above terms.

6. It is needless to state that the order dated 31.10.2014 stands vacated.

7. The learned Civil Judge, Junior Division is hereby requested to make an endeavor to expedite the proceedings in the suit.

[SMT. SADHANA S. JADHAV, J.]