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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1742 OF 2018

Rajendra Pandurang Rathod
 Age – 45 years, Occ – Agriculture
 R/o Mulaj Tanda, Taluka – Omerga
 District – Osmanabad

PETITIONER

VERSUS

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| <ol style="list-style-type: none"> 1. Shantabai w/o Shankar Chavhan
 Age – 55 years, Occ – Household
 R/o Balsur, Taluka – Omerga,
 District – Osmanabad 2. Latabai w/o Kisan Chavhan
 Age – 50 years, Occ – Household
 R/o Balsur, Taluka – Omerga,
 District - Osmanabad 3. Kamlabai w/o Siddhu @ Sidram Pawar
 Age – 40 years, Occ – Agriculture & Household
 R/o Kilaj, Taluka – Tuljapur,
 District – Osmanabad 4. Jhamkabai w/o Pandurang Rathod
 Age – 45 years, Occ – Household
 R/o Mulaj Tanda, Taluka – Omerga,
 District – Osmanabad
 Presently residing at
 Balsurtanda, Taluka – Omerga
 District – Osmanabad | <p>RESPONDENTS</p> |
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Mr. Chaitanya V. Dharurkar, Advocate for the petitioner
 Mr. N. C. Swami, Advocate for respondents No. 1 to 3

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[CORAM : SUNIL P. DESHMUKH, J.]
DATE : 5th JUNE, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with

consent of learned advocates for the appearing parties.

2. This is a writ petition moved against order dated 8th November, 2017 whereunder learned judge of the trial court has purportedly rejected request to let the petitioner deposit amount of costs pursuant to order dated 18th August, 2017.

3. Learned advocate for the petitioner points out that there is no reflection of application of mind by the trial court to the reasons mentioned in the application at Exhibit-24 and thus requests that a lenient view be taken. The delay in making payment of costs has not been deliberate. As a matter of fact, this court, while issuing notice on 13th February, 2018 has indicated that subject to the payment referred to in paragraph No. 5 of the order, writ petition may be considered with some leniency.

4. Learned advocate for the respondents, however, submits that perusal of application Exhibit-24 does not depict that it would be referable to section 148 of the Civil Procedure Code. No particular extension of time had been sought and in the circumstances, even though impugned order may not exactly reflect upon reasons for causing delay, the same is seldom liable to be faulted with.

5. Be the things as those are, yet it appears that pedantic and technical approach be eschewed. There has been delay in making application and the delay has been explained in application at Exhibit-24. The petitioner appears to have given plausible explanation for delay in making payment of costs pursuant to order dated 18th August, 2017. Veracity of the same is not in dispute. In the circumstances, it would be expedient to allow the writ petition. Inconvenience caused to the other side appears to have been already taken care of under the orders passed by this court on 13th February, 2018.

6. Having regard to aforesaid, writ petition stands allowed in terms of prayer clause "B". Impugned order dated 8th November, 2017 passed by civil judge, junior division, Omerga on Exhibit-24 in regular civil suit No. 200 of 2016 is set aside. Petitioner to deposit Rs.400/- in the trial court pursuant to order dated 18th August, 2017 in the right earnest. Rule is made absolute in aforesaid terms.

[SUNIL P. DESHMUKH, J.]