

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7090 OF 2013

- | | | |
|----|--|-------------|
| 1. | The State of Maharashtra
Through the District Collector, Beed | PETITIONERS |
| 2. | The Collector, Land Records, Beed | |
| 3. | The Deputy Superintendent
Land Records, Wadwani | |
| 4. | The Tahsildar, Tahsil Office
Wadwani, Taluka - Wadwani
District - Beed | |

VERSUS

- | | | |
|------|---|-------------|
| 1. | Nasrinbano w/o Abdul Rahim Qureshi
Age - 47 yeas, Occ - Agriculture & Household
R/o Wadwani, Taluka - Wadwani,
District Beed | RESPONDENTS |
| 2. | Abdul Rahim s/o Amin Qureshi
Age - 52 years | |
| 3. | Hamid Amin Qureshi
Age - 67 years, | |
| 4. | Rashid Amin Qureshi
(Died) Through LRs | |
| 4A1. | Sajeda Rashid Qureshi
Age - 60 years | |
| 4B2. | Siraj Rashid Qureshi
Age - 30 yeras | |
| 4C3. | Shakib Rashid Qureshi
Age - 28 years, | |
| 4D4. | Taufiq Rashid Qureshi
Age - 26 years | |
| 4E5. | Shahin Rafiq Qureshi | |

Age - Major

4F6. Farin Rashid Qureshi
Age - Major,
All Residents of Wadwani
Taluka - Wadwani, District - Beed

5. Majid Amin Qureshi
Age - 71 years,

6. Bilal Amin Qureshi
Age - 60 years,

All Occ - Agriculture
R/o Wadawani, Taluka - Wadwani
District - Beed

.....
Mr. S. P. Tiwari, AGP for petitioners - State

Mr. M. S. Karad h/f Mr. S. S. Thombre, Advocate for R-1 to 3,5&6

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 12th SEPTEMBER, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. Learned AGP submits that while defendants No.1 to 4 in Regular Civil Suit No. 224 of 2014 – authorities of the State had been engaged in work, there has been a slip in prosecuting proceedings under suit and giving instructions to file written statement to the advocate. As such, written statement could not be filed within time and “*no written statement*” order came to be passed against the petitioners on 5th April, 2012. However, as

soon as there had been little let up, they had moved the court on 6th September, 2012 by filing application for setting aside said “*no written statement*” order. He submits that looking at aforesaid, a proper and lenient view be taken. He further refers to that this court had already indicated that subject to deposit of amount, writ petition would be considered and the amount accordingly has been deposited in this court.

3. Learned advocate for the respondents, however, submits that while the suit had travelled further, after filing of affidavit of examination in chief, the application has been filed. There appears to be dearth of diligence in prosecution of the matter. He, therefore, submits that order impugned in the circumstances may not be faulted with.

4. However, looking at that the suit has been instituted against defendants, *inter alia*, government authorities and the relief has been sought against them, it would be expedient that to avoid procrastination of litigation at later stages, to allow the writ petition taking a lenient view, while the inconvenience caused to the plaintiffs in the process appears to have been taken care of under the order dated 21st September, 2013 passed by this court by directing the petitioners to deposit an amount of Rs.5,000/- which can be appropriated towards costs to be paid to

respondents.

5. In view of aforesaid, avoiding technicalities, it would be appropriate to allow the writ petition. Writ petition, in the circumstances is allowed. Rule is made absolute in terms of prayer clause "B". Petitioners to file their written statement within a period of eight weeks from the date of receipt of writ of this order by trial court. The amount deposited by the petitioners be appropriated towards costs to plaintiffs from petitioners. At this stage, learned advocate for the plaintiffs graciously states, on instructions, that instead of transmitting the amount for payment towards costs to the plaintiffs, the same be remitted to High Court Legal Services Sub Committee, Aurangabad. As such, amount of Rs.5000/- deposited by the petitioners be transmitted to High Court Legal Services Sub Committee, Aurangabad and shall be deemed to be paid by plaintiffs. In view of disposal of writ petition, civil application No. 13475 of 2017 for intervention stands disposed of.

Dinesh
Ramrao
Pawar

Digitally
signed by
Dinesh
Ramrao
Pawar
Date:
2018.09.27
10:36:48
+0530

[SUNIL P. DESHMUKH, J.]

drp/wp7090-13