

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11345 OF 2017

SYED AKBAR URF BABU SYED JAAFER AND OTHERS
VERSUS
SHAIKH HASAN IMAM AND OTHERS

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Advocate for the Petitioners : Shri Dalvi Uday D.
Advocate for Respondents 1 to 3 : Shri V.V. Bhavthankar.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd June, 2018

Per Court:

1 The Petitioners are aggrieved by the impugned order dated 12.06.2017 by which, the delay of three years has been condoned by the Trial Court and Defendant Nos.36, 39 and 41 have been permitted to file their Written Statement by paying costs of Rs.2500/- each.

2 I have considered the strenuous submissions of the learned Advocates for the Petitioners and the contesting Respondents and I have gone through the petition paper book with their assistance.

3 I find from the record that the suit is for seeking a declaration against all the Defendants and for recovery of possession against the Defendants, except Defendant Nos.36, 39 and 41. The suit is with regard to an immovable property. The delay caused in not filing the Written

Statement is about 28 months.

4 I do find from the pleadings in the application filed by these three Defendants seeking recalling of the “No WS” order that strong reasons have not been set out. These three Defendants are labourers with meager earnings. The way the reasons have been pleaded in the application, is indicative of the fact that the legal representative has not appropriately drafted the application. These labourers are residents of Taluka Majalgaon and the suit is in Taluka Kaij, which is far away from the place of their residence. It is contended that the journey to the Court itself costs these labourers, inasmuch as, they lose the daily earning if they have to attend to the court proceedings. In these circumstances, it is prayed that in order to protect the valuable rights of these Defendants, a lenient view may be taken.

5 The learned Advocate for the Petitioners submits that if this Court is inclined to take a lenient view, some more costs may be imposed.

6 Considering the above, this Writ Petition is partly allowed only to the extent of enhancing the costs imposed by the Trial Court from Rs.2500/- each to Rs.4000/- each. Rest of the impugned order stands sustained.

7 It is informed that an amount of Rs.2500/- each has already been deposited in the Trial Court. As such, the enhanced costs of Rs.1500/- each would be deposited on or before 23.07.2018 before the

Trial Court, failing which, the Written Statement filed by these three Defendants will not be considered by the Trial Court while deciding the proceedings.

kps

(RAVINDRA V. GHUGE, J.)