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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2 OF 2018

Laxman @ Dipak s/o Baburao Jawale

PETITIONER

VERSUS

Laxmibai w/o Youraj Tale and Others

RESPONDENTS

.....

Mr. Narsing B. Jadhav, Advocate for the petitioner

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 19th JUNE, 2018

ORDER :

1. None for the respondents.
2. Heard learned advocate for the petitioner.
3. Petitioner, aggrieved by order dated 21st September, 2017 passed on Exhibit-22 in Regular Civil Suit No. 100 of 2016, by third joint civil judge, junior division, Osmanabad, setting aside "no written statement" order, subject to payment of costs of Rs.5000/-, is before this court.
4. Learned advocate for the petitioner contends that although reference has been made to decision in the case of "*Mahendara P. Shaha V/s Gurupreet Kamaljeet*" reported in 2016 (3) ALL M.R. 142, wherein the court had declined to condone delay of 2200 days in filing written statement, yet the application has been allowed by the trial court.

5. Trial court, while passing the order has referred to that written statement ought to have been filed by 20th June, 2016, however, the delay in filing written statement has been explained. The court has further considered that it would be helpful to decide dispute on merits and avoid multiplicity of proceedings and has also considered that inconvenience caused to the plaintiff in the process, who had already filed affidavit of evidence, would be compensated by awarding costs and accordingly, in its discretion, court had set aside the order of "no written statement" and allowed application Exhibit-22.

6. It may have to be noted that the factual position in the present matter appears to be wide apart from the citation relied on. The application filed for setting aside no written statement order contains reasons, which have been considered by the trial court and application for the reasons as have been referred to under paragraph No. 3 of the impugned order has been granted.

7. Having regard to aforesaid, it does not appear to be a case wherein extraordinary powers of this court should be invoked. Writ petition is, therefore, not entertained and is rejected.

[SUNIL P. DESHMUKH, J.]