

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1011 OF 2017

Rohidas Radhakisan Kadam and another.. **Petitioners**
Versus
Vishwanath Dashrath Kadam and another..**Respondents**

Mr. Mahesh R. Sonwane, Advocate for the
Petitioners.

Mr. Shubham D. Jayabhar h/f. Mr. D. R. Jayabhar,
Advocate for Respondent Nos. 1 and 2.

CORAM: S. V. GANGAPURWALA, J.

DATE: 16th August, 2018

PER COURT :

1. The respondents have filed suit for declaration and injunction. The application filed by the petitioners for acceptance of the written statement has been rejected.

2. Mr. Sonwane, learned counsel for the petitioners submits that the petitioners had filed the written statement even prior to the no written statement order being passed, still, the application filed by the petitioners for setting aside no written statement order was rejected.

3. Mr. Jayabhar, learned advocate for the respondents submits that the defendants are required to file written statement within a period of 30 days from the date of service of notice. In the present matter, the summons were served upon the defendants and the defendants appeared on 09.02.2015 and the written statement was filed on 11.06.2015, same is belated. No proper reasons are given.

4. I have considered the submissions canvassed by the learned counsel for respective parties.

5. It appears that the written statement was filed within a period of four months from the date of appearance of the petitioners. The reason given in the application is that as necessary documents were not available the written statement could not be prepared and filed earlier. Considering the same and the fact that the written statement is already filed, I am inclined to consider the application of the petitioners for setting aside

no written statement order, however, the petitioners also deserves to be mulct with costs. The impugned order is quashed and set aside. The written statement filed by the petitioners shall be accepted on condition that petitioners pays costs of Rs. 5,000/- (Rs. Five Thousand only) to the plaintiffs on or before 10.09.2018. The costs may be deposited in the Court or may be paid to the plaintiffs directly.

6. Writ Petition accordingly allowed. No costs.

[S. V. GANGAPURWALA, J.]

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