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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9545 OF 2018

Ashok B. Jamdare & Anr.	...Petitioners
V/s.	
Santosh B. Jamdare & Ors.	...Respondents

Mr.Jyotiram S. Yadav for the Petitioners.

Mr.S.A. Rajepandhare for the Respondent Nos.1 to 17.

CORAM : R.D. DHANUKA, J.
DATE : 24TH OCTOBER, 2018.

P.C. :-

1. By this petition filed under under Article 227 of the Constitution of India, the petitioners have impugned the order dated 3rd January, 2018 passed by the learned Trial Judge below Exhibit – 93 rejecting the prayer for setting aside the orders passed on the applications below Exhibits 75 and 77 and seeking liberty to file the written statement in Regular Civil Suit No.24 of 2008. There was delay of eight years and two months in filing the written statement. Learned Trial Judge accordingly refused to permit the petitioners (original defendant nos.3 and 4) to file the written statement. The application for recall of the orders passed below Exhibits 75 and 77 is also rejected.

2. Learned counsel appearing for the petitioners states that similar delay was condoned in favour of the respondent nos.1 and 2. In the suit, the learned Trial Judge has also framed issues. No affidavit of evidence is filed by both the parties till date.

3. No affidavit in reply is filed by the contesting respondents in this writ petition.

4. In the interest of justice and in view of the fact that the petitioners have sufficiently explained the delay, I am inclined to grant an opportunity to the petitioners to file the written statement however on the condition that the petitioners to pay the costs of Rs.2,000/- by way of donation to the Kirtikar Law Library within two weeks from today. A copy of receipt of such donation shall be shown to the learned Trial Judge. Upon production of such receipt, the learned Trial Judge shall accept such written statement of the petitioners on record.

5. The impugned orders are quashed and set aside in aforesaid terms. The writ petition is disposed of.

6. The parties are directed to convey this order to the learned Trial Judge for record and compliance.

7. Learned counsel appearing for the original plaintiffs who are respondent nos.1 to 17 in this writ petition undertakes to file the Vakalatnama within two days from today. The undertaking is

accepted. The office is directed to accept such Vakalatnama if filed on behalf of the respondent nos.1 to 17.

Vasant
Anandrao Idhol

Digitally signed by Vasant
Anandrao Idhol
Date: 2018.10.26 11:46:26
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(R.D. DHANUKA, J.)